Carl Magee

MISSISSIPPI LAW JOURNAL

PROCEEDINGS MISSISSIPPI STATE BAR

Forty-Third Annual Meeting

Chief Justice Sydney Smith—A Memorial

W. G. Roberds
R. J. Farley
Phil Stone

INDEX FOR VOLUME XIX

October, 1948

VOLUME XIX NUMBER 4

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LAW JOURNAL INDEX

The editors of the LAW JOURNAL plan the publication next year of a comprehensive index to Volumes 1 through 20 of the JOURNAL. This index, most of which has already been compiled by members of the JOURNAL staff, will include a table of all cases commented on in the JOURNAL.

In order to complete plans for publication, it is necessary to ascertain how many lawyers will be interested in purchasing a copy of the index.

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Mississippi Law Journal

JOURNAL OF THE MISSISSIPPI STATE BAR

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EDITORIAL AND BUSINESS OFFICE, UNIVERSITY, MISSISSIPPI

STOKES V. ROBERTSON

Retiring President of Mississippi State Bar

PROCEEDINGS OF THE FORTY-THIRD ANNUAL MEETING OF THE

Mississippi State Bar

Held at University, Mississippi, on the 28th and 29th of May, 1948

The convention was called to order in Fulton Chapel at 9:30 A.M., May 28, 1948, by Honorable Stokes V. Robertson, President of the Mississippi State Bar.

The invocation was delivered by Reverend Gayle Beanland, D.D., of Oxford.

Addresses of welcome were delivered by Chancellor J. D. Williams, on behalf of the University of Mississippi; by Dean R. J. Farley, on behalf of the University Law School; Lieutenant Governor Sam E. Lumpkin, Tupelo, for the lawyers of North Mississippi; by Honorable J. W. T. Falkner, Oxford, for the members of the Oxford Bar; in the absence of Honorable Branham Hume, Mayor of Oxford, the convention was welcomed by Mr. C. S. Haney, Secretary of the Oxford Chamber of Commerce. Honorable Leon F. Hendrick, Jackson, responded to the welcoming addresses on behalf of the members of the Mississippi State Bar.

President Robertson stated that the President's annual report and address was the next order of business, and he delivered the same as follows:

ANNUAL REPORT AND ADDRESS OF PRESIDENT

Foreword

The activities of the State Bar since our last meeting will be shown in some detail by reports of committees, as indicated on the program.

The Commissioners have been earnest, interested and cooperative, and have given freely of their time to the work of the Bar during the year.

Led by our very competent and industrious secretaries, Mrs. Margaret McLean earlier in the year and Mrs. Lura Ethridge later, the Commissioners have reduced delinquencies in Bar dues to the lowest number in the entire history of the State Bar. Less than 4% of all the lawyers in the State are in arrears. I hope that the new commissioners and officers to be selected at this meeting will continue a fair but firm policy and further reduce the number. The law requires all to pay dues. It should be enforced.

The Commissioners have approved and set aside funds for perfecting the filing system and preserving the records in the State Bar office, so that the office will be enabled to render more efficient service to the Bar as a whole.

Through cooperation of State officials, an office for the State Bar on the main floor of the New Capitol building has been provided. This is on

the same floor with and appropriately near the State Library and the Supreme Court.

Expenses have been kept to a minimum. Members of the Bar have generously contributed their time and talents in reprimand and disbarment proceedings against erring lawyers and in investigation of complaints. No complaint has been made that has not been earnestly, fairly and fearlessly investigated and the results fully reported. In one instance, the services rendered by Commissioners of the Bar and local attorneys in a disbarment proceeding, estimated at lowest Bar rates, exceeded $2,000.00.

We can not commend too highly the State Bar committees who have served with us during the year, especially the Study Committee and the two Legislative Committees who cooperated in presenting to the recent Legislature the State Bar Program adopted at our last meeting as to procedure reform and raising of standards for admission to the Bar.

I attach hereto a copy of my report and recommendations submitted to the Legislature, for the State Bar, pursuant to By Laws, same being Exhibit "A" to this report.

I also attach a list of all committees serving the State Bar this year, same being Exhibit "B" to this report.

Among the duties of the President of the State Bar is to make, in his annual address, suitable comment upon the legislation that has been enacted since the last annual session.

Custom and usage have been that, since our own Legislature meets biennially, the President of the Bar in the year of its sessions deals with its Acts, leaving to the Presidents of the Bar in the intervening years the duty of commenting on Acts of Congress and the decisions of the United States Supreme Court.

However, before discussing the recent Acts of our State Lawmakers, I remind you that, last year, following the United States Supreme Court's noted Tidelands decision, the State Bar adopted a strong memorial to Congress asserting and asking recognition of the rights of the Sovereign States. It is, therefore, gratifying to us and the people of other Coastal States that the Lower House of Congress has passed, by a large majority, the Act restoring the rights taken from the States by the decision. We should join others interested in urging the early passage of the Act by the Senate.

Then, as to a matter that worries me, I trust that from the cumulative wisdom of the Bar I may be corrected if I am wrong in interpreting the recent decision of the United States Supreme Court as holding that certain restrictions in deeds become violative of the 14th Amendment when brought into Court, but are perfectly valid until they do get in Court. It is the filing in Court and not the contract provisions that produces the invalidity.

Comments on the Acts of the Legislature

Some forty years ago, I attended my first State Bar meeting. I was a member of the Legislature of 1908 that had just adjourned. Dr. T. H. Somerville, of blessed memory, then Dean of the Ole Miss Law School,

was President of the State Bar. As we filed into the banquet hall, he whispered in my ear that he would call on me after the meal to talk about the work of the recent Legislature.

This was the first news I had, and you can imagine my consternation and how big each bite of juicy steak became and the utter impossibility of swallowing it.

I racked my brain, that is, such brain as I had after serving for 3½ months as a member of the House of Representatives. I couldn't think of anything worthwhile that the Legislature had done except to pass a statewide prohibition law, and I couldn't refer to that because the Bar meeting was in Natchez.

All I could think of was a small part which, here at Ole Miss, I had memorized of the oration by the Honorable Marcus Antonius at the funeral of one J. Ceasar, who in the Ides of March, at the base of Pompey's statute, had been the victim of the knives and daggers of Messrs. Brutus, Cassius, Casca, et al: "The evil men do lives after them. The good is oft interred with their bones." and, I managed to say, "So let it be with the Legislature!"

I may have offered some feeble defense. If so, I don't remember it, but I do remember saying that much, and now after 40 years, when I am called on to review the Acts of the late lamented Legislature of 1948, I say the same thing.

To make suitable comment as to recent State legislation means that I find myself in the inconsistent positions of prosecutor and attorney for the defense of the Legislature. A prosecutor, because of necessity I must call attention to some sins of omission and commission by the Legislature. A defense attorney, because in analyzing the Acts of the Legislature much is found worthy of commendation.

As to the Legislature of 1948, I believe I could present a pretty good case, producing ample proof and citing respectable authority, either for the prosecution or the defense.

One witness for the prosecution is a member of the Legislature himself, Honorable Billy McGraw, Senator from Yazoo County. He said, at the close of the Session, that the Legislature had done something good for everybody *except the taxpayers.*

But the genial Senator, being one of the defendants, cannot be made to testify, so his testimony will be excluded.

The deposition of Judge George H. Ethridge, himself a former Legislator, is available in his celebrated dissent in *Crippen v. Mints Sales Co.,* 103 So. 503. He said:

> . . . it would be a dangerous undertaking for the court if it had the power to undertake the job of correcting legislative mistakes and follies, for there is much in the statutes of the past dozen years evidencing midget minded statesmen and much of folly. Still I am not disposed to be hard on the Legislature. Taken as a whole it does good work and eliminates many unwise measures.

> There are men in the Legislature who could fill any station in the government with credit, and the majority would class as 'average and better.' But there are usually some 35 to 40 per cent of the membership whose only excuse for being sent to the Legislature is to keep them out of the race for constables and justices of the peace. These men have votes and have to be reckoned with by the wise ones in shaping the legislation of the session. If you antagonize their bills they strike back. They are strong on midget legislation and when they introduce a bill to place jay birds under peace bonds, or to muzzle seed ticks, or to prohibit vending machines in stores, the wise ones will vote with them for the sake of more important measures coming on.

However, that testimony was taken in April, 1925, and was in support of an indictment of former generations of Lawmakers—not possibly applicable to Legislators of 1948, some of whom had not been born and many of whom were not dry behind the ears when the good Judge gave the friendly jibe. I do not testify but, as prosecutor, I have a remark or two I would like to make.

The Senate should not have defeated the Bill passed by the House for the retirement of Judges. It was not a pension bill. Its purpose was to enable us to try our cases before experienced judges when the regular judge or chancellor is sick or absent. And then too, the Senate when it, in adopting a committee report, severely castigated the Supreme Court, forgot, and should be ashamed of forgetting, that our Constitution entrusts the powers of government to three great magistracies, each entitled to the dignified respect of the others even when it differs from them.

The Legislature should have passed H. B. 765, reducing the time from six months to sixty days for taking an appeal to the Supreme Court. As to this and as to the judges' retirement bill, you will note the report of our study committee which was sent to you and which will be presented later today by Supreme Court Justice L. A. Smith, Chairman of that Committee.

I hardly believe there is a lawyer in the State of Mississippi that does not realize that the present Board of Bar Admissions is overworked and should be reorganized, and that the standards for admission to the Bar are unspeakably low and should be raised. The State Bar last year made constructive recommendation and committees of the Legislature to whom our bill was referred made favorable report; but defeat came on the floor of the House. This was in some measure because false issues were injected and because much of the debate produced heat rather than light. This matter is discussed at some length in the committee report which will be presented by Honorable Charles S. Tindall Jr., chairman, today.

In my opinion, the Legislature erred in passing S. B. 292. Its passage shows that they forgot that it is the school children who own the 16th Section lands and who should get the chief benefits therefrom, and not the lessees.

A reading of their Acts and an observation of their procedure show that too many bills are passed on the morning roll call. Too many matters are covered by local and private acts that should be ignored or cov-

ered by general laws. Too many acts are termed general laws that, because of their applicability to peculiar conditions or particular localities, are really local and special laws parading under a general title. An example is H. B. 945, ostensibly a general law and very definitely for a good purpose, that is, authorizing ad valorem tax of one-half mill for farmers' markets, but, by a restrictive clause therein, it applies only to counties having a population in excess of 50,000 with two or more municipalities therein, each with a population in excess of 10,000 according to the last Federal census. I haven't been able to think of but one county to which the Act would apply.

So much for the prosecution.

I really prefer to defend, and it's because this Legislature deserves it, and not merely because they will be back in Jackson and we want to stand in with them. Incidentally, they adopted an amendment to the Constitution for meetings of the Legislature every year. If the people approve, the job of legislator will soon become an all time job, instead of a biennial vacation—See H.C.R. 16.

Recently, a close student of public affairs stated that the Legislative Session of 1948 has been generally accredited with having done more to make Mississippi a modern state than has any Legislature in many years. I agree.

First among the reasons for so highly accrediting them is that in 1948 they had the money with which to do things that previous legislatures were anxious to do but couldn't do for the want of adequate state funds.

State Surplus Earmarked to Pay All Debts with Large Excess

They found in the State Treasury, earmarked and set aside to pay all the State's debts, a fund previously accumulated and now carefully invested in the amount of $14,738,656, which is $1,012,656 more than needed to pay all the bonds and obligations of the State. So they saw that without further tax therefor the State will be debt free in 1953. The only reason the bonds could not be paid now is that they are not callable. *There was also in the State Treasury a large surplus, which they expended—most of it wisely.*

Ample Provision for Negroes

We wonder what critics from across Mason and Dixon's Line can say as to S. B. 589, which authorized the erection by the State Building Commission of separate buildings and other acommodations for a school for the colored children who are blind and another for those who are deaf, such schools to be upon not exceeding 200 acres of the lands in Jackson now owned by the Mississippi School for the Deaf, and S. B. 677, appropriating $400,000 for these buildings.

Note also that H. B. 459, a General Act, and H. B. 861, an Appropriation Act, provide instruction, at this State's expense, in graduate and professional schools for qualified negro students who are residents of Mississippi in institutions outside of the State, when such instruction is not

available for them in the regularly supported Mississippi institutions of higher learning.

Note that similarly, by S. B. 612, the Legislature ratified (when ratified by six other States) a compact of Southern States for operating regional educational institutions, having to do particularly with Meharry Medical Institution of Nashville, Tennessee, to be operated as a regional institution for medical, dental and nursing education.

Problems Frankly Faced

Not, however, to be misunderstood on these problems, which are peculiarly our own, the saving salt of true Southern sentiment was crystalized in H.C.R. 22, expressing grave apprehension and vigorous objection of Mississippi people to the recommendations of President Truman's committee on civil rights, and S.C.R. 8 commending Oklahoma on its action maintaining segregation of races in its institutions of higher learning, and S.C.R. 21 endorsing and commending the Mississippi Democratic Executive Committee and creating a people's committee to insure the selection of Presidential electors who stand unalterably for States' Rights.

And then, there is H.C.R. 56, which proposes for adoption by the people an amendment to Section 241 of the Constitution for two purposes. First, to add as a qualification of voters that they "sustain a good moral character" and second, to cure the anomalous Constitutional provision that permitted a minister to vote after a residence of 6 months in the election district, but did not permit the minister's wife so to do.

Cognizant of National problems, the Legislature agreed with the Resolution of the State Bar, passed at our last annual meeting, and adopted S.C.R. 12 approving the Resolution pending in Congress to amend the Constitution of the United States to forbid the election of one person to the office of President more than twice.

Expressing itself on International matters, the Legislature adopted S.C.R. 7, approving the Plan as presented to the American people and Congress by Secretary of State Marshall, and memorializing Congress to pass adequate appropriation to insure the recovery of Western Europe.

Thus comprehending and speaking its collective mind on sectional, National and International problems, the Legislature also dealt with things very close to home.

H. B. 185 takes note of and tries to prevent speculation in tickets to athletic contests of colleges or universities of the State, and forbids the sale of such tickets for more than the amount printed on the face, and fixes places for and manner of sale of such tickets.

Of interest here at Ole Miss are H. B. 291, creating, and H. B. 294, appropriating $100,000.00 for building for, school of nursing here; and also H. B. 876 authorizing Trustees of Institutions of Higher Learning to lease lands for Fraternity Houses.

Notable Achievements of 1948 Legislature

Among the notable achievements of the Legislature of 1948 are the Conservation Act, the Workmen's Compensation Act, aid to World War

Veterans, and others to which I shall refer later, particularly the procedure reform act (H. B. 530).

Legislation Affecting Lawyers

a. General

We of the State Bar note with proper appreciation that the Legislature provided that, to the list of judges and officers to get the advance sheets of the General Acts of the Legislature, was added "each member of the Mississippi State Bar in good standing, according to the records of the Secretary of the Mississippi State Bar." See H. B. 603.

Also of interest to lawyers is S. B. 530, raising the jurisdiction of County Courts in civil suits to $3,000.00, exclusive of interest and costs; and

H. B. 529, to require defendants to plead on or before the first day of the term or 30 days after process is served; and

S. B. 203 limiting publication of legal notices to papers with general circulation; and

S. B. 362 to provide for taking depositions of physicians; and

S. B. 401 making Monday a legal holiday, if legal holiday falls on Sunday; and

H. B. 119 amending present laws as to issuance of mandate by Supreme Court Clerk; and

H. B. 528 requiring separation of youthful convicts and first timers from hardened criminals; and

H. B. 240 amending the law as to bad checks; and

We are reminded that 50 years is a short time by H. B. 282, making perpetual the charters of fraternal and benevolent corporations.

b. Civil Procedure Reform

But the legislation which is of particular interest to us in our activities as attorneys in court is H. B. 530, and I wish to extend my remarks on that subject in a measure somewhat commensurate with that interest.

When the courts of common law jurisdiction in civil cases were first regularly established in this State, they took their procedural rules in the main from the common law system of pleading, as had been generally done in the other states. But as the daily affairs of the people progressed beyond those which were characteristic of a period of pioneer settlements, there came to maturity a realization that the extremely technical requirements of the common law rules of pleading with all their dialectical niceties and facilities for delay were such as to render them a hindrance in the prompt and proper attainment of justice in an active modern world. So it was that towards the middle of the past century, statutory reforms were being made in nearly all the states, and in 1848 New York led out in the adoption of a code of procedure by which all forms of action and all purely technical pleadings were abolished, and a simple system patterned largely

after the rules in equity and in admiralty was substituted for the common law rules of pleading and procedure.

This was followed in other states until now in a majority of them the code practice prevails and there has been added a similar practice in the federal courts throughout the nation by the federal rules of civil procedure, adopted in 1938, amended in minor particulars in 1947.

The movement started in New York in 1848—one hundred years ago—had a contemporaneous response in Mississippi. For just two years later, that is 98 years ago, at the regular legislative session in 1850, Chapter 4, Laws of Mississippi of 1850, was passed and was approved.

By it all the technical forms of common law pleading were abolished; the declaration was simplified, and an answer was substituted for all general and special pleas. At that time, however, the members of the bar resided, in the main, in the larger county seat towns and rode circuit to the adjoining counties. They met their clients and were employed when the courts met, and they had no time to file answers at the return term. They preferred instead a practice under which they could file in a few words a simple plea of the general issue with privilege to file special pleas when they had the time on return to their offices to do so, the return term to be an imparlance term.

Hence, when the Code Commission was appointed for the Code of 1857, the Commission decided to recommend the repeal of the Act of 1850, and to allow in simple terms notice of special matter under the plea of the general issue, but at the same time to restore, as an optional course, the old common law pleas and special pleas. This was adopted and the notice under the plea of the general issue became what has been continued in all subsequent codes and is Section 1480, Code of 1942. And the provisions of the Code of 1857 have remained in large part without amendment down to this year 1948.

With the changed conditions in Mississippi, with modern improved highways, telephones, typewriters, daily newspapers, and a resident bar in every county seat, with clients seeing their lawyers promptly upon receiving summons, the demand again arose for the modernization of our court procedure. In 1924, Chapter 151, Laws of 1924, the pleadings and procedure in chancery were modernized. Many lawyers and judges felt that the good work should go on, and reach fruition in procedure reform in the law courts. Committees of the State Bar made careful studies and the State Bar vigorously but vainly sponsored bills in the Legislature designed to effect the reform. Even the bill drawn by a strong committee of lawyers and judges approved at our last meeting and ably presented to the Legislature and its committees by carefully selected, earnest and indefatigable representatives of the State Bar, met defeat on the floor of the House after favorable committee report.

But many of the lawyers in the Legislature who opposed that Bill felt that some relief was sorely needed. And from their ranks came H. B. 530, Laws of 1948, which the State Bar Committees helped to pass. By it, procedure on the Law side has been simplified. In fundamental respects, H. B. 530 is framed along the lines of the Act of 1850, but in much simpler terms.

H. B. 530, Laws of 1948, is substantially a rescript of Sections 1290, 1291 and 1300, Code of 1942, taken from the Chancery Practice Act of 1924. And Section 4 of H. B. 530 is a substantial rescript of Section 1480, Code of 1942, which, as already mentioned, first appeared in the Code of 1857. There was inserted, however, in the rescript of what is Section 1290, Code of 1942, the following additional words: "whether inconsistent or not and whether heretofore made by plea in abatement or plea in bar." Please let me make it clear that the provision respecting consistency or rather inconsistency, was *not* inserted by or for the benefit of the women lawyers in the lawmaking body, nor in recognition of the fact that an ever increasing number of the fair sex is joining us at the Bar, nor to adapt practice and procedure to their proverbial predilections and propensities. Not that, at all! The provision is in accord with Sections 1476 and 1477, Code of 1942, replaced by the Act, and the decisions under those sections and also with Rule 8(e) (2) Federal Rules.

Therefore, H. B. 530, Laws of 1948, contains no resort to anything new, but avails of what has been time tried and has been found good. Any lawyer who has a working knowledge of the rudiments of the rules of common law pleading, and a reasonable acquaintance with our present practice in chancery, will have no trouble with H. B. 530, Laws of 1948. Thus we now have a modern practice in our courts of law in civil cases, as well as in our chancery courts, and this without having to make any new studies.

Better Salaries

Recognizing that for decades election to public office in Mississippi has been condemnation to a life of poverty and sacrifice, this Legislature did something about it. By H. B. 583, the salaries of most all state officers were increased.

The lawyers of the State will hereafter deal with better paid members of the Boards of Supervisors—See S. B. 599.

Their property will be assessed by higher salaried County Assessors—See H. B. 377—and deputies—See S. B. 15.

They will file papers with better paid Circuit Clerks—See H. B. 433.

Some one will look after law books in certain counties for, by H. B. 25, the Boards of Supervisors thereof may employ a librarian at a salary not over $900.00 per year.

In the courts they will meet better paid District Attorneys—See H. B. 534, and also County Attorneys who get a living wage because the Legislature authorized Boards of Supervisors to increase salaries of County Prosecuting Attorneys—See S. B. 63.

The testimony in County Court will be taken by a better paid stenographer—See H. B. 167—and, effective October 1, 1948, by a reporter in Chancery and Circuit Courts getting $90.00 per week for all the weeks allowed by law and any extra weeks—See H. B. 18.

The five assistant attorneys general, each getting $5,500.00 per year—See H. B. 611—will dictate opinions for and briefs against us to ladies who used to be stenographers but are now to be secretaries, and get $200.00 per month—See S. B. 382.

Those who have the final say are going to get some better pay, because, while requiring more duties of them, the Legislature increased the salaries of Supreme Court Judges to $10,000.00 per year—See S. B. 380. Not only that, but the Legislature, by S. B. 13, so amended the law as to change the titles of the four ladies who do the work *for* (I do not say of) these Judges from "stenographers" to "secretaries" and raised their pay.

The sacrifices of those patient souls among our brethren who fall victim to appointment as special judges will not be so great hereafter, because—thanks to the efforts of the State Bar's Study Committee—the pay of Special Judges was raised from $10.00 to $25.00 per day—See S. B. 507.

General

On Sundays, lawyers can't go fishing because nobody can, legally. S. B. 636 so permitting died on the House calendar. But they can join the other folks and go to ball games and picture shows and such, but only for 5 hours—1 to 6 p.m.—when they can engage in divine worship while munching peanuts, popcorn and hotdogs. For the other 19 hours, the old commandment still stands—See H. B. 259. We had thought "Remember the Sabbath Day to keep it Holy" meant what the catechism says—one *whole* day in seven. Will we hear the voice of Him who spoke to the Scribes and Pharisees, as recorded in Matthew 15:6: "Thus have ye made the commandment of God of none effect."

When courts are over, our jaded practitioners can feel secure in a little more of this world's goods than heretofore because H. B. 774 raises exemptions from attachment, garnishment and other process. But when they seek surcease in field or on lake and stream, they must not travel too fast because if they go by bus it must not exceed 55 miles per hour and if in the family auto they must step on it only to 60 miles per hour—See H. B. 93. Otherwise, a better paid highway patrolman will give them the fishy eye and maybe want to smell their breath.

Supplies will still be high because they are still black-market-taxed, despite many bills that were offered to repeal the tax.

Game will be more plentiful and fishing better because the Legislature increased from five to eight the members of the State Game and Fish Commission—See H. B. 907—and authorized the Commission to increase the pay of the Director of Conservation to $5,500 per year and to allow him up to $1800 per year personal expense account—See H. B. 691. Under authority of S. B. 458, these better paid folks are going to try to cut expenses by negotiating with Arkansas and Louisiana for reciprocity of fishing and hunting licenses.

Conservation Act

About ten years ago, oil was first discovered in Mississippi. Today, our commonwealth has 21 proven oil fields and 1,123 wells producing 3,750,000 barrels per month, the state ranking ninth in national production. That new fields are yet to be discovered and developed is a foregone conclusion.

Thinking people of the State have been for a long time seriously concerned because the problems had not been carefully studied and an intelli-

gent conservation law had not been enacted. Meeting the responsibility, the Legislature enacted H. B. 80 which, in my opinion, is the really outstanding accomplishment of this Legislature.

Section 1 is a Declaration of Policy: "It is hereby declared to be in the public interests to foster, encourage and promote the development, production and utilization of the natural resources of oil and gas in the State of Mississippi; and to protect the public and private interests against the evils of waste in the production and utilization of oil and gas, by prohibiting waste as herein defined; to safe-guard, protect and enforce the co-equal and correlative rights of owners in a common source or pool of oil and gas to the end that each owner in a common pool or source of supply of oil and gas may obtain his just and equitable share of production therefrom; and to obtain, as soon as practicable, consistent with the prohibition of waste, the full development by progressive drilling of other wells in all producing pools of oil and gas or of all pools which may hereafter be brought into production of such within the State, until such pool is fully defined.

> *It is not the intent,* nor the purpose, of this law to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Mississippi, on the basis of market demand. *It is the intent and purpose* of this law to permit each and every oil and gas pool in Mississippi to be produced up to its maximum efficient rate of production, subject to the prohibition of waste as herein defined, and subject further to the enforcement and protection of the co-equal and correlative rights of the owners of a connon source of oil and gas, so that each common owner may obtain his just and equitable share of production therefrom.

A State Oil and Gas Board is created, composed of five members, one of whom shall be appointed by the Lieutenant Governor for a term of four years, one of whom shall be appointed by the Attorney General for a term of four years, which said two members shall be appointed, one from each of the U. S. District Court Districts, and three of whom shall be appointed by the governor, one from each of the Supreme Court Districts, for terms of the following duration: one member from the First Supreme Court District for a term of two years, one member from the Second Supreme Court District for a term of four years, and one member from the Third Supreme Court District for a term of six years; provided, however, that there shall be no more than two members from any one Supreme Court District.

The Act provides that the board shall elect from its number a chairman and a vice-chairman. Hon. Jas McClure, a member of the State Bar, was elected Chairman of the Board, which assures fair enforcement of the law.

Members are paid $20.00 per day for a possible 160 days per year.

The Board shall appoint and fix annual salary of a State Oil and Gas Supervisor, who shall be a competent petroleum engineer or geologist with at least five year's experience in one of such professions. The Supervisor,

under the direction of the Board, shall be charged with the duty of enforcing the act and employing necessary personnel.

The Attorney General is the attorney for the Board, provided, however, the Board may, in cases of emergency, or in special cases, from any funds available, upon the request of the Attorney General, retain additional counsel to assist the Attorney General.

The Supervisor is required to devote his entire time to his official duties.

No board member, supervisor or employee can be engaged in any phase whatsoever of the oil or gas business.

Waste is forbidden, and the many ways that the products may be wasted are catalogued.

Specific preventive measures and rights as to spacing, pooling, unitization, etc. are outlined for regulation and enforcement by the Board with requirement of 10 days publication of notice in case of proposed changes.

The Act requires that: "All well logs, casing records, compiled data and other information shall be properly indexed and suitably recorded in the permanent records of the Board and shall be open to inspection by the public at all times during reasonable office hours."

It further provides that the Board, or any member thereof, or the supervisor, is empowered to issue subpoenas for witnesses, to require their attendance and the giving of testimony before the Board, and to require the production of such books, papers, and records in any proceeding before the Board as may be material.

And it further provides that no person shall be excused from attending and testifying, or from producing books, papers, and records before the Board or a court, or from obedience to the subpoena of the Board, or any member thereof, or the supervisor or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture.

The Board can sue and be sued and all notices or other process authorized or required to be served upon the Board may be served upon the supervisor or upon any member of the Board.

When two or more separately owned tracts of land are embraced within an established drilling unit, the persons owning the drilling rights therein and the rights to share in the production therefrom may validly agree to integrate their interests and to develop their lands as a drilling unit. If the proposed unit be 40 acres or less and owners fail to agree, the board may require such persons to integrate their interests and to develop their lands as a drilling unit. All orders requiring such pooling shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, etc.

Appeals may be taken from such determination as from any other order of the Board.

In addition to other remedies now available, the State, or any interested person aggrieved by any final rule, regulation or order of the Board, shall have the right of appeal, regardless of the amount involved, to the Circuit Court of the First Judicial District of Hinds County, or to the circuit court of the county in which all or a part of appellant's property affected by such rule, regulation or order is situated.

All such appeals shall be taken and perfected, heard and determined either in term time or in vacation on the record, and such appeal shall be heard and disposed of promptly by the court as a preference cause. An appeal shall not stay or suspend the operation of any rule, regulation or order of the Board, but the judge of the circuit court to which the appeal is taken may award a writ of supersedeas to any rule, regulation or order of the Board after five days notice to the Board and after hearing; provided, however, any order or judgment staying the operation of any rule, regulation or order of the Board shall contain a specific finding, based upon evidence submitted to the circuit judge and identified by reference thereto, that great or irreparable damage would result to the appellant if he is denied relief.

Violators of rules and regulations of the Board are subject to suit or injunction by the Board or, if it fails for 10 days to sue, any interested person may bring the suit in the Chancery Court of violator's residence or in the Chancery court of the County where the violation occurred or is threatened.

Appeal may be taken to the Supreme Court and shall be placed on that court's preference docket.

Taxation on Drilling Rigs

Another Act in connection with the oil industry simplifies taxpaying procedure without losing taxes. It is H. B. 759. Clear and workable, basing the amount of the tax on established standards of capacity, it levies an annual privilege tax in lieu of ad valorem taxes on rigs for the drilling of oil or gas wells in Mississippi.

War Veterans

The Legislature recognized the rights and needs of war veterans.

H. B. 194 strengthens Section 2125 of the Code of 1942 to prevent any person not a member of a nationally chartered Veterans' organization from wearing the insignia, distinctive ribbons or membership rosette or button or any imitation thereof.

H.C.R. 35 memorializes Congress to sell Government lands in this State to residents of it, not to exceed 160 acres per person, as a homestead, and to give preference to U. S. Veterans of any war.

S.C.R. 23 refers to the needs of disabled veterans desiring to purchase small farms, calling on land owners to contact the Veterans Administration and to assist disabled veterans in locating and acquiring small farms.

S. B. 53 provides credit toward retirement of members of Fire and Police Departments for periods when they may have been absent from

their employment in the armed forces of the United States, or in civil employment abroad.

S. B. 139 creates a State Veterans' Examiners Board, a State Service Commissioner and six assistants, and grants Commissioner and Assistant Commissioners notary powers. This Act repeals and revises Sections 7486-7492, Code of 1942, Chapter 175, Laws of 1944.

H. B. 1034 appropriates $952,000 as a revolving fund for loans to veterans to acquire farms and homes under the G. I. Bill of Rights.

When applicable to all similarly situated, injustices being done to veterans prompted enactment of H. B. 1065, exempting future sales of real estate from sales tax, and H. B. 1064, repealing the law requiring sellers to recover sales tax from purchasers.

Elections

Because a former statute made "x" the only symbol to be used in marking the election ballot, our Court had to hold in *Guice vs. McGehee,* 155 Miss. 858, 124 So. 643, and in *Carver vs. State el rel Ruhr,* 177 Miss. 54, 170 So. 643, that a ballot marked by ordinary check mark opposite name of candidate could not be counted. But many voters could not change the check mark habit acquired in ordinary business, and, therefore, more and more ballots plainly showing the voters' choice had to be discarded. So this Legislature passed H. B. 419 ,which provides that election ballots may legally be marked with a check mark, if consistently used for the whole ballot, or with an "x" as heretofore.

Another Act, not interesting to many of you but giving relief to some of us, is H. B. 675, which provides that voters above 60 years of age, having once received certificate of exemption from Poll Tax, need not carry the certificate to the polls, but the matter is covered by Circuit Clerk's certified list of exemptions to precinct election officers.

H. B. 867 requires the placing of the names of Presidential and Vice-Presidential candidates on the ballots for electors. The Act says: "It is the intention of this act to provide that each of the qualified electors of the state may participate in said general election and vote for a group of electors of his choice."

Laws for the General Good

Protecting the public more than you would at first suspect, S. B. 229 amends present law so as to require the operation by a registered pharmacist or licensed physician of, or the employment of such in, any store which uses or displays a sign indicating that it is a drug store and that professional pharmaceutical services are performed therein.

Installments of assessments for special improvements will bear no more interest than the taxing authority has to pay and never 6%, as heretofore—See S. B. 126.

You who in coming to this Convention and in hurrying to Courts in other counties have had your right of way disputed by sleek Sukeys and fat Bossies and their progeny will be glad to know of the enactment of H. B. 256 which is to more adequately protect the traveling public on the

highways of this State by making it unlawful to permit livestock to run at large on the highways, to make it the duty of Highway Patrolmen to report and of certain officers to remove livestock from the highways; to prescribe how livestock running at large on the highways shall be dealt with, and to require owners of the stock to pay all fees and expenses incurred.

To settle obvious problems that confront many counties of the State, S. B. 640 authorizes the Board of Supervisors of any county to exercise the zoning powers provided in Section 3590 of the Mississippi Code of 1942 in closely built-up unincorporated communities and having a population of 1000 or more inhabitants within one mile of a church or school house. It grants power of eminent domain where required to acquire play grounds and public parks.

And now, for Ladies only, H. B. 241 creates a three member State Board of Cosmetology to control and regulate the practice of beauty culture and hairdressing in the State of Mississippi. It provides that the Board shall employ inspectors as needed, not to exceed the number of five, who shall be full time employees and whose salaries and duties shall be fixed by the Board. The salaries of all paid employees of the Board shall be paid out of funds paid to the Board as fees, as provided in this Act.

Ladies, the law protects you and your beauty, but warns you not to get your hair-do, your mud pack, your face-fix or your manicure at a place that doesn't display a state certificate of registration.

Historical Matter

A State that does not remember and is not proud of its past history will make history that it can't be proud of. S. B. 390 is of more than ordinary interest. It provides for the suitable marking of historic sites in the State of Mississippi, and creates a State Historical Commission to carry out the provisions of this Act. It provides that no salary shall be paid the members of the commission, but they shall be reimbursed for their actual and necessary expenses in attending meetings and performing duties.

By H. B. 1084, the State, by $2,000.00 appropriation, will help defray expenses of sesqui-centennial celebration at Natchez, this year.

To be commended is H. B. 630 which revives the official and statistical register that, in earlier times, appeared every few years. We will now know not only who used to be great but also those now great and near amongst us. It was precedent, of course, and not vain glory that prompted the provision that the names, pictures and biographies of the Legislators themselves will be in the volume.

Workmen's Compensation Act

H. B. 351

Effective January 1, 1949

For a quarter century or more, every regular session of the Legislature has considered the matter of workmen's compensation, but passage failed for one reason or another. The proponents succeeded at the recent legislative session, over strong opposition even by some who favor the principle of workmen's compensation. H. B. 351 will become effective

January 1, 1949; the net result is that the Legislature is being acclaimed by some and severely criticized by others.

Friends of the Law admit that it needs corrective amendments.

The Law is to be administered by three commissioners to be appointed by the Governor and confirmed by the Senate. Originally the terms will be for 2, 4 and 6 years; thereafter for 6 years. Provision is made for a sufficient staff. Primarily the operating costs of the Commission will be paid by the Insurance Companies providing Workmen's Compensation coverage in the State.

The official domicile of the Commission is Jackson, but it may hold hearings anywhere in the State.

The administration of such an Act is highly technical and is unquestionably work for specialists. No law can be better than its administration and we hope that the commissioners and employees of the Workmen's Compensation Commission will be selected strictly on merit, and that those who perform their duties satisfactorily will be continued in office and allowed to accumulate experience and knowledge.

Under the Act, the Commission must adopt rules and regulations, and these, when approved, are to have force and effect as laws. Much, therefore, depends on the wisdom of the Commission that promulgates the initial rules and regulations.

The Act makes it mandatory that all employing units with eight or more employees provide coverage, either by insurance or as self-insurers. Units with less than eight employees may elect to come under its provisions.

Nonprofit charitable, fraternal, cultural or religious units are excluded, as well as transportation and maritime employments. Domestic servants, farmers and farm labor are exempt except when engaged in the commercial processing of agricultural products.

The employing unit may provide coverage, either through insurance companies qualified to do business in the State, or by becoming a self-insurer.

Insurance under the Act will take the place of employers liability insurance. The Insurance Companies are now engaged in the complicated job of rating the liabilities under the law and the advance opinion is that the coverage will be high in cost, due to the risks covered and benefits provided. The premium will undoubtedly be based on a percentage of the payroll and the various employments will be typed according to the expected hazards involved, and the percentage figure will be higher for the types with the greatest hazards.

To begin with, all employing units engaged in a type of employment will probably pay the same rate. However, as experiences are accumulated the units with favorable history may get a reduction in rates.

It makes no difference, under the Act, whether or not the injured employee was negligent. The liability is determined by the extent of the

injury. The liability of the employer is exclusively determined by the Act, taking the place of all other liability.

Occupational diseases are not covered.

In case of disability, a waiting period of five days is allowed during which no compensation is payable, (other than medical benefits). Except where the disability continues for fourteen days or more, compensation payments are retroactive to the date of the disability.

The Employer is required to furnish complete medical and surgical services, including medicine, supplies and apparatus as long as the nature of the injury may require. The law provides no limitations in this respect.

The weekly compensation amounts for disability or in death cases shall not exceed $25.00 per week or be less than $7.00 per week. The amount is calculated as being 66-⅔% of the injured or deceased employees average weekly wages, within limits prescribed.

Compensation is payable for certain types of disability:

1. *Permanent or temporary total disability*—Compensation at the rate of ⅔rds of injured workers' average weekly wages, limited to $25.00 per week, for 450 weeks or $8,600.00, whichever is the lesser.

2. *Permanent partial disability*—In addition to the amounts payable for temporary total disability, the law provides for specific compensation, payable at the rate of ⅔rds of the injured employees' average weekly wages, limited to $25.00 per week, but only for a designated number of weeks.

a. As an illustration, for the loss of an arm—200 weeks, leg—175 weeks, thumb—60 weeks, and so on for many named situations which would cause permanent partial disability, with a provision for determining maximum liability in other cases which are not specifically set out.

b. For the loss of, or loss of the use of more than one member, as set out, the awards are payable consecutively.

3. *Temporary partial disability*—Compensation payable at the rate of ⅔rds of the difference between the injured workers average weekly wages, before the injury and his wage earning capacity after the injury, subject to the maximum limitations of $25.00 per week for 450 weeks or for $8,600.00, whichever is the lesser.

Compensation in case of death is an immediate lump sum payment of $100.00, funeral expenses not to exceed $350.00, and benefit to dependents within the usual limits of ⅔rds of the deceased employee's average weekly wages, limited to $25.00 per week for 450 weeks or $8,600.00, whichever is the lesser. Payment will be to the surviving wife or dependent husband 35%, during widowhood or dependent widowhood; to each surviving child 10% (child, under the law, is defined as being one under 18 years of age or if over, wholly dependent on deceased at time of injury or death by reason of mental or physical disability); in case there are surviving dependent children and no surviving wife or dependent husband—each child 15%; and in case of no surviving wife or dependent husband or child, or

if the aggregate of all payments are less than the limits, provision is made for additional compensation to other dependents.

Notice of injury or death must be given the employer within thirty days.

On or before the 14th day after he has or receives knowledge, the employer may notify the Workmen's Compensation Commission that the claim is controverted, giving reasons therefor.

In controverted, and certain other cases, the Commission makes investigations, holds hearings, summons witnesses and makes awards, etc. The final award of the Commission is conclusive unless within 30 days it is appealed to the Circuit Court of the County where the injury occurred. The trial by the Court is *on the record and the law,* and is not *de novo.*

A second injury fund is to be provided for compensation in cases where a worker has previously lost one leg, arm, etc., or sustained a permanent partial disability and who becomes permanently totally incapacitated by the loss of another member.

Every employer is required by the law to keep notices posted as to his coverage.

Penalties are provided for failure by the employer to comply with the law or for his secreting or hiding information or property, etc.

In case of injury or death of a minor, employed in violation of the law, the benefits and compensation shall be double that otherwise provided and shall be paid by the employer alone.

This is, of course, only a very brief outline of this very important and far reaching legislation. Every lawyer should give careful study to the Act itself.

Conclusion

Lawyers will argue and judges will ponder the various Acts of this Legislature and try to find and declare the legislative intent of each separate Act.

Such is not the purpose nor is it the scope of this review. I have tried merely to give you a bird's eye view of some of the legislation recently enacted.

It is my conclusion and I believe you will will concur that the student of public affairs was correct in saying that the Legislative Session of 1948 has been and should be generally accredited with having done more to make Mississippi a modern State than has any legislature in many years.

EXHIBIT "A" TO PRESIDENT'S REPORT

Recommendations

of

Mississippi State Bar

To The LEGISLATURE of the STATE OF MISSISSIPPI:

Section 8709 of the Mississippi Code of 1942, Annotated, provides that:

> It shall be the duty of the Mississippi State Bar, by and through its president, to recommend to the State Legislature such legislation relating to the courts, to matters of pleading, practice and procedure, and any other legislation which in its judgment will improve the courts and the law, or render the members of the bar more efficient as ministers of justices and the courts more efficient as instrumentalities for its attainment.

Pursuant thereto, I, the undersigned President of the State Bar, present and recommend for your favorable consideration the following matters adopted by said State Bar, to-wit:

1. The Resolution, a copy of which is hereto attached, to amend the Unified Bar Act to give lawyers 65 years of age or older the option of paying or not paying State Bar dues.
2. Resolution embodying the proposed amendment to the Constitution of the United States relating to the terms of office of the President. A copy of this Resolution is hereto attached.
3. Resolution with reference to Rules of Civil Procedure. A copy of said Resolution and a copy of the report thereasto of the Committee of the State Bar and the Junior Bar Section thereof, and a copy of the bill approved by the State Bar for submission to you, are hereto attached and made a part hereof.
4. Report and recommendations as to Legal Education and Admissions to the Bar, whereof copy is hereto attached.

I am pleased to report that the Junior Bar Section has given considerable attention to a study of inaccuracies, omissions and conflicts in our Code law, and has circularized the membership of the State Bar for suggestions on such inaccuracies. I am advised that its findings on these matters will be presented to you with bills to correct and clarify the said statutes.

I am advised that committees of the State Bar and its Junior Section will prepare bills for introduction in the House and/or Senate covering all these recommendations.

Respectfully Submitted,

STOKES V. ROBERTSON, President,
MISSISSIPPI STATE BAR.

EXHIBIT "B" TO PRESIDENT'S REPORT

List of State Bar Committees—1947-48

Administrative Law Committee:

Phil Stone, Chairman, Oxford
Everett E. Cook, Gulfport
Judge Frank E. Everett, Indianola
W. L. Guice, Biloxi
D. W. Houston, Sr., Aberdeen
R. C. Stovall, Columbus
J. Kearney Travis, Hattiesburg
Hugh V. Wall, Brookhaven
W. Calvin Wells, Jackson
R. E. Wilbourn, Meridian

Budget and Finance Committee:

R. W. Thompson, Jr., Chairman, Gulfport
J. D. Thames, Vicksburg
J. Kearney Travis, Hattiesburg
W. W. Dent, Collins

Complaint Commissioner:

Leslie Darden, New Albany

Judicial Conference Delegates:

Lester Clark (three years), Hattiesburg
Fulton Thompson (two years), Jackson
Phil Stone (one year), Oxford

Alternates

R. W. Thompson, Jr., Gulfport
Gerard H. Brandon, Natchez
James McClure, Sardis

Law Journal Committee:

Hubert Lipscomb, Chairman, Jackson
Leslie Darden, New Albany
Frank Everett, Jr., Vicksburg
Joseph E. Brown, Natchez
R. W. Heidelberg, Jr., Hattiesburg
Guy Mitchell, Jr., Tupelo
Phil Stone, Oxford

Committee on Legal Education and Admissions to the Bar:

Charles S. Tindall, Jr., Chairman, Greenville
James A. Alexander, Jr., Jackson
John B. Brunini, Vicksburg
David Cottrell, Gulfport
George M. Ethridge, Jr., Meridian
Charles D. Fair, Louisville
Huey B. Howerton, Jr., Oxford
Fred J. Lotterhos, Jackson
Tom J. Tubb, West Point
Erskine W. Wells, Jackson

Committee on Procedural Reform:

Robert Burns, Chairman, Jackson
J. L. Alford, McComb
Ross R. Barnett, Jackson
Gerard H. Brandon, Natchez
Hugh N. Clayton, New Albany
W. N. Ethridge, Jr., Jackson
W. C. Keady, Greenville
Alton Massey, Kosciusko
Guy Mitchell, Jr., Tupelo
Ray Stewart, Picayune
Phil Stone, Oxford

Memorial Committee:

J. Morgan Stevens, Chairman, Jackson
W. D. Anderson, Jackson
George H. Ethridge, Jackson
A. A. Cohn, Brookhaven
E. J. Currie, Hattiesburg
DeWitt Enochs, Jackson
W. E. McIntyre, Brandon
Clarence E. Morgan, Kosciusko

Study Committee:

L. A. Smith, Sr., Chairman, Jackson
John C. Satterfield, Secretary, Jackson
Lester Clark, Hattiesburg
J. F. Guynes, Hazlehurst
James T. Kendall, Jackson
Eugene Thompson, Marks
O. B. Triplett, Jr., Forest

Committee for Arrangements for Annual Meeting:

W. N. Ethridge, Chairman, Oxford
Walter R. Bridgforth, Yazoo City
J. O. Day, Clarksdale
Charles D. Fair, Louisville
Paul H. Farr, Prentiss
Martha Gerald, Jackson
Huey B. Howerton, Jr., Oxford
L. S. McLaren, McComb
R. L. Smallwood, Jr., Oxford
L. G. Spivey, Canton

Committee to Arrange Program for Annual Meeting:

Edward J. Currie, Chairman, Hattiesburg
Leon F. Hendrick, Vice-Chairman, Jackson
William A. Bacon, Jackson
James A. Blount, Charleston
Stewart C. Broom, Jr., University
Hindman Doxey, Holly Springs
J. W. T. Falkner, Oxford
Bonnie Mills, University
Thomas Y. Minniece, Meridian
W. L. Sharpe, Corinth

Poet Laureate:

W. A. Ellis, Carthage

Resolutions Committee:

Lester Clark, Chairman, Hattiesburg
J. H. Caldwell, Charleston
Bernard Callender, Columbia
Charles D. Fair, Louisville
Evelyn Gandy, Hattiesburg
L. B. Porter, Union

Whereupon, the President surrendered the chair to Honorable Arlington Jones of Hattiesburg, second vice-president.

Honorable James S. Eaton of Gulfport, Chairman, presented the following:

REPORT OF JUNIOR BAR SECTION

Since our last annual meeting the Junior Bar Section has actively cooperated with the State Bar in advocating before the Legislature adoption of the program originated by the Junior Bar and recommended by the State Bar at its last meeting. This program consisted principally of two phases.

The first was the recommendation of an act providing for conferring upon the Supreme Court rule-making power in regard to practice and procedure in our state courts. The Legislature declined to adopt this act, but did pass House Bills 529 and 530, the effect of which, among other things, was to substitute in the Circuit Court an answer in lieu of pleas, including plea of the general issue and requiring the defendant to plead within thirty days after service of process or on the first day of the return term, whichever would cause the plea to be filed earlier.

The Study Committee of the State Bar has recommended some amendments to these two acts, as well as other procedural changes. Recommendation of the Study Committee will be presented to you today. The Junior Bar Section by resolution has endorsed the objective of continued civil procedure reform and has endorsed the report of the Study Committee of the State Bar. It further recommends that the State Bar continue its efforts toward such objective by such method as it deems appropriate. The Junior Bar further expresses its appreciation for the diligent work of the Study Committee and recommends that this Committee be continued as a permanent Committee of the Association.

The second phase of the program initiated last year by action of the State Bar was the endorsement of legislation by which standards for admission to the bar would be raised, and the composition of the State Board of Bar Examiners would be amended. Legislation to this end was introduced and vigorously supported by the Junior Bar acting together with the State Bar through a joint committee. This legislation failed of adoption. The Junior Bar Section, however, reaffirms its considered opinion, however, that standard for admission must be raised. It unanimously endorsed the report and recommendations of the Committee of the State Bar on Legal Education and Admissions to the Bar, which will be presented to you this afternoon, and recommends that the report and program urged by that report be adopted by the State Bar.

The Junior Bar Section is glad to announce that the Honorable George Woodliff, the new Chairman of the Section, has been appointed to the Board of Bar Examiners.

The Junior Bar Section unanimously adopted a report upon Federal and State Relations, and by resolution unanimously went on record as favoring and endorsing the action of our governing officials and elected representatives in asserting and upholding the constitutional principles of States' Rights and local self government. The Section further urges and recommends that the State Bar similarly go on record endorsing such action, and give every support to every effort to preserve and defend the constitutional principles of States' Rights upon which our State and our Nation have been founded and have prospered from the beginning of our history.

May I take this opportunity to express my personal appreciation, as well as that of the Section, to the Honorable Stokes Robertson, our President, for the assistance and counsel he has given to the Junior Bar in its efforts to carry on a constructive program of benefit to the bar and to the public. May I also assure the State Bar that it may count on the diligence of the Section and its members in assisting in every way it can in effectuating the program of the State Bar.

In conclusion, it gives me pleasure to announce that the Junior Bar Section will for the ensuing year be under the capable leadership of the Honorable George Woodliff of Jackson, Chairman, and the Honorable Huey Howerton of Oxford, Vice-Chairman.

Honorable Leslie Darden of New Albany, presented the following:

REPORT OF COMPLAINT COMMISSIONER

Mr. President, Ladies and Gentlemen of the Mississippi State Bar:

During the past year I have had the honor of serving the Bar as Complaint Commissioner. As you know, under the provisions of our By-Laws, the Complaint Commissioner occupies the position somewhat similar to that of a conservator of the peace in a preliminary hearing. His duty is to call for the original proofs in the form of affidavits and to consider any charges made for unprofessional conduct against any member of the Bar, together with any explanation or opposing affidavit stated on behalf of the member of the Bar so accused. In the event that the complaint is of such nature that the Complaint Commissioner deems the ends of justice require it, the matter is then referred to the Board of Commissioners as a whole to consider the complaint and determine what action shall be taken in reference to it. Ordinarily, this action consists of the appointment of a committee to investigate further and to report back to the Commissioner with their recommendations as to the action to be taken against the member accused.

In addition to the duties imposed by the By-Laws of the State Bar, it has become the custom of Complaint Commissioners in the past, which has been carried out during the present administration, for the Complaint Commissioner to attempt to work out all complaints that are not of a serious nature, in an informal manner and by conciliation between the lawyer complained of and the parties who filed the complaint. Very frequently this procedure sufficiently meets the ends of justice and operates to the best interests of the Bar, both in its internal discipline and the matter of its public relations.

During the past year, there have been referred to your Complaint Commissioner eight new complaints. The majority of these have resulted because of the failure of members of the Bar to keep their clients properly informed of the progress of business that has been turned over to the lawyers. The majority of this type of complaint have arisen in matters of correspondence collections. The Complaint Commissioner has tried to deal with this type of complaint by writing the lawyer involved, requesting and urging him to submit a full and complete report of the item of business involved to the client who has registered the complaint with the Commissioner.

Significantly enough, the more serious types of complaints which have come to the attention of the Complaint Commissioner have all originated with local Bar Associations, who are to be commended on their efforts to preserve the good name of our profession in their communities.

During the past year the Complaint Commissioner has also had brought to his attention one request on the part of a lawyer for investigation of informal charges which have been made against him, and vindication. Your Commissioner conceived that this was beyond the scope of his powers and authority as prescribed by the By-Laws of the Bar, but he considered the action on the part of the lawyer a flattering evidence of the confidence which the members of the Mississippi State Bar have in your organization and its operation.

I regret the necessity of reporting to you that during the past year it has been necessary for the State Bar to institute proceedings and prosecute and secure the disbarment of a member of your Bar. It has also been necessary for your Bar to publicly reprimand one of its members.

There are now pending several serious complaints which are being referred by the Commissioner to the Board of Commissioners for further action on the part of the Board.

I should like to take this opportunity to express my sincere appreciation to the President, other officers, the Board of Commissioners, and all members of the Bar who have so courteously and generously assisted the Complaint Commissioner in the performance and discharge of his duties.

It has been an enlightening and heartening experience to have served as Complaint Commissioner of the Mississippi State Bar. Considering the number of lawyers, their numerous points of contact with various people, and the great volume of confidential business they handle for the public, the fact that only eight complaints have come to the attention of the officials of the State Bar in the course of a year, reflects great credit on our profession.

Whereupon, President Robertson presiding, the following reports were presented:

Honorable Robert Burns of Jackson, Chairman, presented the following:

REPORT OF THE COMMITTEE ON PROCEDURAL REFORM

Your Committee on Procedural Reform, composed of the Chairman, and of the Honorable Gerard H. Brandon, Natchez, the Honorable W. C. Keady, Greenville, the Honorable Hugh N. Clayton, New Albany, the Honorable Phil Stone, Oxford, the Honorable W. N. Ethridge, Jr., Jackson, the Honorable J. L. Alford, McComb, the Honorable Guy Mitchell, Jr., Tupelo, the Honorable Alton Massey, Kosciusko, the Honorable Ray Stewart, Picayune, and the Honorable Ross R. Barnett, Jackson, was specifically assigned the duty under resolution adopted at the 1947 annual meeting of the Mississippi State Bar to procure the enactment of a proposed statute vesting rule-making power in civil cases in the circuit, chancery, and county courts in the Supreme Court of the State of Mississippi. This statute provided for the creation and appointment of an Advisory Committee composed of twenty members, nine of whom were to

be appointed by the President of the Mississippi State Bar with the concurrence of the Chairman of the Junior Bar Section, six of whom were to be judges of our trial courts appointed by the Supreme Court, and five of whom were to be laymen appointed by the Governor of Mississippi. This was for the purpose of getting the viewpoint of the lawyer, of the judge, and of the layman in promulgating proposed rules. The rules were to be adopted by this committee; were to then be submitted to the Supreme Court for examination, change and approval; and were then to be submitted to the next regular session of the legislature for consideration by it, with authority in the legislature to reject, change, add to or approve any rule or rules proposed.

Your Committee made a vigorous effort to have the legislature pass the statute as above indicated. Your Committee procured the introduction of this bill in both the House and the Senate, and held two meetings of the Committee in Jackson, Mississippi, prior to the presentation of the bill before a joint meeting of the Judiciary Committees of both the House and Senate. In the meantime, certain opposition to the bill developed, and certain lawyers appeared at the hearing before the joint meetings of the Committees of the Legislature and opposed the passage of the bill. Your Committee vigorously defended the proposed statute at this hearing. The bill was favorably reported out of the House Committee but was defeated on the floor of the House.

The Legislature did pass two short statutes making certain reforms in procedure in the circuit courts. These two statutes will not here be discussed, because they have been discussed in the report of the Study Committee of the Mississippi State Bar, which report has been printed and distributed to all of the lawyers in the state. It is interesting to note that in the report of the Study Committee, several changes and additions are recommended to these statutes already enacted. This very fact, to our minds, shows rather conclusively the merit of the proposed bill that was defeated, in that it was the purpose of that bill to require a careful study of the existing rules of procedure and a careful study of the effect of the proposed changes, so as to avoid hasty action and the need for numerous changes in the rules or statutes that might be adopted or passed. The matter of promulgating procedural changes is a technical matter. It is one that can be handled better by a qualified committee acting deliberately and carefully. It has been difficult and always will be difficult to get the proper consideration of such matters at a legislative session, where legislators are dealing with innumerable subjects. Your Committee still strongly feels that the statute proposed by the Mississippi State Bar is the better and sounder method of procuring procedural reform in civil matters.

However, if the method proposed will not be accepted by the legislature and will continue to be vigorously opposed by a number of lawyers in the state, it will be necessary to effect the desired reforms in our rules of procedure through the regular legislative channels. This will require much careful study and hard work.

As Chairman of this Committee I would like to particularly recognize the work done and effort made by the Honorable Gerard H. Brandon of Natchez, the Honorable W. C. Keady of Greenville, the Honorable W. N. Ethridge, Jr., of Jackson and Oxford, and the Honorable Ross R. Barnett

of Jackson. These men appeared before the joint committee of the House and Senate and vigorously supported and defended the proposed statute. Mr. Ethridge prepared and submitted a brief to the legislative committees, showing conclusively the constitutionality of the statute, and no opponent of the proposed bill mentioned a single authority holding that such a statute would be unconstitutional. I wish to express appreciation for the fine cooperation given the Committee by Stokes V. Robertson, President of the Bar, and James S. Eaton, Chairman of the Junior Bar. I wish also to express thanks to all members of the Committee for their efforts. I regret that we were unable to procure favorable action from the Legislature.

Honorable Phil Stone of Oxford, Chairman presented the following:

REPORT OF COMMITTEE ON ADMINISTRATIVE LAW

The following were appointed by President Stokes V. Robertson as the Committee on Administrative Law:—

Major W. Calvin Wells, Jackson
Judge Frank E. Everett, Indianola
Honorable Everett E. Cook, Gulfport
Honorable Frank A. Critz, West Point
Honorable D. W. Houston, Sr., Aberdeen
Honorable R. C. Stovall, Columbus
Honorable Hugh V. Wall, Brookhaven
Honorable R. E. Wilbourn, Meridian
Honorable W. L. Guice, Biloxi
Honorable J. Kearney Travis, Hattiesburg
Honorable Phil Stone, Oxford, Chairman.

Due to various circumstances this Committee has had no meeting and has done very little work except personal consultations between the members.

We recommend that the incoming President continue this Committee and that the Committee with a similar Committee of the Junior Bar Section meet for a study of the State Administrative bodies during the coming year.

Honorable Hubert Lipscomb of Jackson, Chairman of the *Committee for the Law Journal,* presented *Roland Marble,* a student of the University of Mississippi Law School, editor of the Law Journal, who presented the following:

REPORT ON THE LAW JOURNAL

Mr. President, Ladies and Gentlemen of the Mississippi Bar:

With the publication of the proceedings of this State Bar Convention the Mississippi Law Journal will have completed twenty years of continuous publication of legal materials for the use of the members of the Mississippi bar. We are proud of this achievement, particularly proud of the fact that the Journal was able to continue publication, without a lapse, during the recent war. We believe that the Journal is one of the most complete publications existing today which deals principally with Mississippi law and decisions.

The question arises, though, as to what is the JOURNAL worth to you, as practising lawyers in Mississippi? To be worth anything to you it must be available to you; for easy reference it should be bound into volumes; and to speed your search for the article in point it has to be efficiently indexed.

We of the JOURNAL regret to say that it is impossible for us to make available to you the first eight volumes. It is realized that some of you have these volumes, but the supply has been exhausted and they are out of print. The JOURNAL, of course, does not have the eight thousand dollars which it would cost to reprint these volumes. The Bar Association does not have any such funds, and the only remaining source of funds of this kind, it seems, would be to petition the Legislature to have these volumes reprinted for the use of the courts, judges and lawyers of Mississippi. Of course, such a petition is outside the scope of this report. The JOURNAL is able, however, to supply you with any issue or any volume from Volume IX through Volume XIX, at a cost of seventy-five cents per issue for the older issues and one dollar an issue for some of the more recent ones.

Since it is almost impossible to keep the individual issues in order and available, it is thought that the JOURNAL would be worth more to you if it were available in permanent bound volumes. Most lawyers probably have contacts with printers who do binding work for them; however if anyone desires to have his issues bound, the JOURNAL can give you a quotation on the cost. If some of you desire to purchase the issues available at the JOURNAL in bound form we can also quote prices per volume for the different bound volumes. If we are able to help you in this matter of binding, it would certainly be more convenient to refer to the pages of the JOURNAL and would make the material more available for citing in your briefs.

The last and most difficult problem of increasing the value of the JOURNAL has been the preparing and publishing of an Index. After thorough consultation with the members of the Law Journal Committee of the State Bar it has been decided that the most feasible method of securing the publication would be to offer copies of the Index for Volumes I through Volume XX for three dollars a copy. Even at this price it will be necessary to sell more than one thousand copies to defray the estimated printing cost of three thousand five hundred dollars. The staff members of the JOURNAL have expended a large amount of work in compiling the index for the eighteen volumes which have been published prior to the present time and most of this heavy work has been completed. The work is being kept current and it is anticipated that the publication can begin very soon after completing the printing of Volume XX in October, 1949.

When you registered for this convention you were handed a sheet explaining the difficulties and the plans and requesting those of you who desire an index to sign a reservation for one of them. If you failed to receive this mimeographed letter or have lost your copy, there are additional copies available. We urge those of you who desire an index for your MISSISSIPPI LAW JOURNAL to deposit your reservation in the box provided for this purpose in the lobby of Fulton Chapel.

Whereupon, on motion of Honorable Robert H. Powell of Canton, the meeting was recessed for the Ole Miss Alumni Luncheon and other fraternal luncheons, to reconvene at 2 p.m.

AFTERNOON SESSION, MAY 28TH, 1948

President Robertson called the meeting to order and presented *Chancellor Lester Clark,* of Hattiesburg, who made the following:

REPORT OF THE DELEGATES TO THE JUDICIAL CONFERENCE

It has been my privilege for the past two years to serve as a delegate from the Mississippi State Bar Association to the Federal Judges Conference which was held in New Orleans May 22 and 23, 1946, and May 23 and 24, 1947, and will be held in New Orleans this year, June 3 and 4.

When I was first appointed as a delegate to this conference I determined that I would attend and ascertain, if I could, the philosophy and thinking of the Federal Judges, both district and circuit, on the trend of our government—that is to say—whether or not a majority of the judges would favor the continuance of administrative agencies and boards usurping the functions and powers of the courts. It was with great satisfaction that I learned that both district and circuit judges were almost unanimous in their opposition to the trend of federalization that has occured within the past few years, and it was heartening to me to see those able judges speak out without hesitation when they felt that administrative agencies were infringing upon the functions of the constituted courts of this country.

The members of this bar will remember that a few years ago we had the privilege of having as an honor guest on the Mississippi State Bar program, Honorable John J. Parker, Federal Circuit Judge for the Fourth Circuit. Judge Parker's home is in Charlotte, North Carolina, and you will perhaps remember that for a number of years Judge Parker had been holding informal conferences made up of the circuit and district judges of his circuit, and also of presidents of the State Bar Associations, and other outstanding lawyers and jurist from the states within the circuit, including the deans of leading law schools, etc. Judge Parker's informal conferences proved so valuable that the Supreme Court of the United States and the circuit judges of the other circuits took notice of the fine work Judge Parker was doing and decided that a similar plan should be enacted into law whereby each circuit in the United States would have a federal judges conference, and that delegates from the various state bar associations would attend and have a voice and vote in the proceedings, etc. Committees were appointed by the United States Supreme Court, the senior circuit judges, the attorney general's office, the American Bar Association, the American Judicature Society, and the deans of law schools and others, who set out to formulate plans for drafting a bill to submit to Congress which would provide in substance the following:

> (1) All administrative matters relating to the offices of the clerks and other clerical and administrative personnel of the courts, but nothing contained in this chapter shall be construed as affecting the authority of the courts to appoint their administrative or clerical personnel, or the authority of the Attorney General respecting United States marshals and their deputies, United States attorneys and their assistants, and probation officers;

(2) Examining the state of the dockets of the various courts and securing information as to their needs for assistance, if any, and the preparation of statistical data and reports of the business transacted by the courts, and promptly transmitting the information so obtained quarterly to the senior circuit judges of the respective circuits, to the end that proper action may be taken with respect thereto, but inspections of the dockets of the courts outside the continental United States shall be made through officials of the United States Government residing within the jurisdiction, respectively, of said courts;

(3) The disbursement, directly and through the several United States marshals as now provided by law, of the moneys appropriated for the maintenance, support and operation of the courts;

(4) The purchase, exchange, transfer, and distribution of equipment and supplies;

(5) The examination and audit of vouchers and accounts of the officials and employees covered by this chapter;

(6) The providing of accommodations for the use of the courts and the various officials and employees covered by this chapter; and

(7) Such other matters as may be assigned to him by the Supreme Court and the conference of the senior circuit judges. The clerks of the district courts, their deputies and assistants, and all other employees of said courts shall comply with any and all requests made by the Director or one of his assistants for information and statistical data bearing on the state of the dockets of such courts.

Under our Constitution we, of course, have three departments of government, the Legislative, the Executive and the Judiciary. Prior to the passage of this act, which was enacted in 1939, and will be found under Title 28, U.S.C., beginning with Paragraph 444, the United States Attorney General's office had complete charge of the administrative functions, including preparations and submission of the courts' budgets and had control of the finances thereof. I believe at this point I can best state the proposition by quoting from a statement of Judge Lawrence D. Groner, Chief Justice, United States Court of Appeals for the District of Columbia who was appointed by the Chief Justice of the United States to serve as chairman of the committee that prepared House Resolution 2973 which was subsequently amended and re-introduced as House Resolution 5999 which was enacted into law and the hearings were held by the Committee on Judiciary of the House of Representatives on March 2 and April 15, 1939. I quote from the opening statement of Judge Groner at the hearing, which statement gives a brief history of this legislation—I quote:

> Justice Groner. Mr. Chairman, the bill which the committee has under consideration was introduced in the beginning of the session by the chairman of the committee, at the instance, I think I may say, of the Department of Justice.

Inasmuch as it is perhaps true that some of the members of the committee are not familiar, at all, with the bill, I shall take a few moments to explain its origin, as well as its purposes.

The bill is not one which originated with the courts. The late Attorney General, for reasons which appealed to him as controlling, about three or four years ago, prepared, or had prepared, in the Department of Justice, a bill with the primary object of transferring from the administrative control of the Attorney General certain functions in relation to the physical management and control of the finances of the courts.

The Congress annually appropriates, on the recommendation of the President, through the Budget, a sum of money for the support and maintenance of the Federal courts for the ensuing year. The Attorney General felt that the spending of that money, the distribution of it, which is largely for the physical well-being of the courts, the maintenance of their quarters, the employment of their staffs, the purchase of law books, typewriters, and material of that kind, ought not to be controlled by the executive officer of the Government, who was, himself, the representative of the government in more than 50 percent of the litigation in the courts. In other words, that in the conditions which obtain today, where the United States are the plaintiffs or prosecutors or defendants in such an overwhelming proportion of the litigation in the Federal courts, the law officer ought not to have the distribution of the funds of the courts; in other words, that the judges ought not to feel dependent upon him for the carrying out of those necessary physical functions, by which they carry on the business of the courts.

That I mention as one of the objects, the elimination of which, Mr. Cummings, as Attorney General, sought to obtain. In addition to that, he sought to obtain the compilation of statistics, of the business of the courts, keeping up with the dockets of the courts, reporting annually to the Congress the number of cases pending in the courts, brought in the courts and disposed of by the courts—that imposed upon him a very difficult and almost insurmountable task.

And so, with that object in view—and I am stating this freely now, in order you may have the background out of which this present bill grew—he had drawn and submitted to the Judicial Conference. The Judicial Conference, as you gentlemen perhaps all know, is a conference of judges, authorized by a statute, a Federal statute, comprising the senior judges of the 11 circuits, that is, the 10 circuits and the District of Columbia.

It meets annually, by law, and is presided over by the Chief Justice of the United States and it, by law, considers the conditions existing and the business done, the lack of celerity with which business is done, and other matters looking to the improvement of the administration of justice in the courts.

I was saying that the bill was presented to the judicial conference. It was considered by the conference, but no action was taken on it, at that time. There was a variety of opinion on the subject, as to the wisdom or unwisdom of it.

It was reviewed the following year in a recommendation by the Attorney General, and again considered by the conference and, pending final action by the conference, was introduced by Senator Ashurst in the Senate.

There were several hearings on the bill at that time, but no definite action taken, because of the lack of time, or for some other reason. Therefore, the bill died with the expiration of the last session of the Congress.

Mr. Cummings, then, as Attorney General, presented the matter again very vigorously to the Conference of Senior Judges at its session in the end of September last. The matter was discussed by the conference, and a vote was taken approving the bill in principle; and on motion therefor, the Chief Justice appointed a committee of judges, in collaboration with the Attorney General, to prepare a bill having additional features to those which the bill that had formerly been presented had had, and I was appointed by the Chief Justice to be the Chairman of that committee.

Judge Parker, the senior circuit judge in the fourth circuit; Judge Hicks, in the Chicago circuit; and Judge Stone, in the St. Louis-Kansas City circuit, and one other judge who is not present, were appointed members of that committee.

The Attorney General appointed a committee of lawyers, and members of his staff in the Department of Justice.

The two committees met, and after a lengthy conference, rewrote the original bill of the Attorney General, and that bill was thereafter approved by the Chief Justice of the United States, acting for the Supreme Court. It was approved by the Attorney General; it was approved by his successor, the present Attorney General. It was submitted to, and approved unanimously, by the house of delegates of the American Bar Association, by the Judicature Society, and by the deans of the law schools.

So that the bill, as presented and introduced by Chairman Sumners, has the approval of the Federal judiciary, the approval of the Chief Justice of the United States and his court, the approval of all of the senior circuit judges, the approval of the American Bar Association, the approval of the Judicature Society, and of the deans of the Law School Society. So I think it may be said to have run the gamut of examination by practically every official body in the United States interested in the administration of justice.

Now, with that preliminary explanation, I shall briefly take up the provisions of the bill. Bear in mind, please, that, at the present time, the Congress appropriates money for the use of the

courts in their proper function, and that money is turned over to the Department of Justice; that it is not earmarked in such a way that there is, of necessity, an absolutely equal distribution, that it is a matter largely in the discretion of the Attorney General as to what particular court shall have part of it for its library, what part for its ordinary maintenance expenses. The new bill transfers that function to a new office, called 'Administration Office of the United States courts,' and the first section provides for a director to be appointed by the Chief Justice of the United States and then, in the ensuing portions of the bill, it specifies the duties of the director. Those duties include the following:

The Director shall be the administrative officer of the United States courts, and shall have charge, under the supervision and direction of the conference of senior circuit judges of (1) all administrative matters relating to the officers of the clerks and other clerical and administrative personnel of the courts.

That is the Judicial Conference I just a moment ago mentioned, which is provided for by Federal statute. This does not affect the authority of the courts to appoint the clerks of the courts, nor the authority of the Attorney General to appoint his assistants, United States marshals, and United States Attorneys and to supervise probation officers. In other words, the first section does not affect, in any sense, the appointing power of the Attorney General in relation to the officers whom he now appoints; nor does it constitute authority in the Administrative Officer to change the present law with relation to the appointment of clerks of the courts; but the Administrative Officer shall examine the state of the dockets of the various courts and secure information as to their needs for assistance, if any, and the preparation of statistical data and reports of the business transacted by the courts, and promptly transmitting the information so obtained quarterly to the senior circuit judges of the respective circuits, to the end that proper action may be taken with respect thereto.

Now, that provision, in the opinion of the bar, in the opinion of the Attorney General, and also in the opinion of the Judicial Conference, is an extremely important advancement in the science of the administration of justice in the Federal courts.

The Attorney General, voluntarily, wholly of his own initiative, has, for several years, undertaken by correspondence with the clerks of the courts, the district courts in the various districts of the United States, to compile, annually, certain statistics in relation to the amount of business which the courts do, the number of cases which they hear, the speed with which they are heard, the number, segregating them according to the nature of the case, criminal or civil, the cases in which the United States is a party, and the cases in which the public is a party, the citizens are parties. Those statistics have been extremely valuable and have been annually submitted by the Attorney General to the Conference of Senior Judges, as a result of which recommenda-

tions have been, from time to time, made to Congress in relation to the appointment of additional judges, or matters of that kind.

But there is no power in the Attorney General, and there ought not to be, from the very nature of things by which, when the conditions appear to him as a result of these imperfect statistics and compilations—conditions occur to him which require correction—there is no authority or power in him to effectively correct them, except, perhaps, as a result of the moral suasion of his office.

But this provision in (2), which I have just read, is intended if I may use that expression, to provide a method, a legitimate, valid, legal method, by which, if necessary, and when necessary, the courts may clean their own house; and also to give a body, in which the authority is firmly lodged, the power to do that and to do it expeditiously.

Now, nothing is more important, and I am sure that the members of this committee, all of whom are seasoned lawyers, will understand that nothing is more important than to preserve the integrity and independence of the courts, but here is also a corresponding obligation on the part of the courts to administer justice, so that there may be not only a feeling of universal confidence but a verification of that feeling in their own actions.

Now, the bill also provides that there shall be, annually, in each of the circuits of the United States, a judicial conference within that circuit. The conference is intended to be composed of the circuit judges, of all of the district judges, and of the members of the bar, appointed according to the rules to be adopted by the circuit courts, and which will comprise representatives from the local and State bar associations, all of the bar associations within the circuit.

There is an excellent pattern of that plan in existence in the fourth circuit. Judge Parker, who is the senior circuit judge in that circuit, which comprises Maryland, Virginia, West Virginia, and North and South Carolina, has had a judicial conference, a voluntary judicial conference, for the last 7 or 8 years. It has been attended by the Chief Justice, by the Attorney General, by a number of other prominent officials of the Government, and is attended by some hundred lawyers from all over that circuit, from each section of each State in that circuit, who meet annually in one of the places of holding court in the circuit, and for three or four days they discuss the problems, the mutual problems, of the bar and bench, and as a result of what has been accomplished there I think that, if you will talk to lawyers in Virginia or Maryland or North or South Carolina, you will find a universal feeling of friendliness and cooperation between the bar and the bench growing, as well as a better understanding of the mutual problems which that conference has smoothed out. Judge Parker also testified at the hearing in support of the bill, and I quote from his statement, as follows:

Judge Parker. "Mr. Chairman, my name is John J. Parker, and I am senior circuit judge of the fourth circuit. I live in Charlotte, N. C.

I do not feel that I can add very much to what has been so well said by Judge Groner, except that I have been a United States circuit judge for nearly 14 years, and have been presiding judge of my circuit for nearly 10 years, and have had considerable experience in some of these matters, and it might be helpful for me to give the committee my views about the bill.

The Chairman. "We would appreciate it if you would, Judge Parker.

Judge Parker. "I have studied the bill very carefully. I served on Judge Groner's committee, and I have studied the subject that it deals with in connection with the studies that were made by the American Bar Association last year by our section on judicial administration.

I unhesitatingly endorse what Judge Groner has said about it. It seems to me that the bill does three things: In the first place, it separates the judiciary from the executive department of the Government, and I think that is a salutary thing. I do not wish to be misunderstood about that. I do not mean to say that I think that the executive department has ever attempted to influence the judiciary by reason of the fact that it has control over the funds. I do not think that a judge has ever been influenced by the fact that his salary comes through the executive department, but it seems to me, as a matter of principle, that the judiciary should be divorced from the executive, and what is wrong in principle will ultimately prove mischievous in practice.

As I have heard it said by one of the judges of my State, it is not only important that justice be done, but it is important that people think that justice is being done and understand that it is being done; and as Attorney General Cummings well said in his address before the American Bar Association, there is something unseemly in the law when the chief law officer of the Government, who is appearing before the courts in so many important cases, has control over every facility of the judges' offices, and should be the one to whom the judges must apply for allowances for stationery, clerks, and stenographers, and for everything they have.

Now, it was the intent, of course, of the framers of our Constitution that the legislative department of the Government should have a check and balance on the judiciary and should have the power to say what should and should not be spent by the judges for the carrying on of the judicial function; but I think it is in conflict with the division of powers which the Constitution contemplates to allow the executive department to formulate the budget for the judiciary.

You gentlemen, as representatives of another great independent branch of the Government, formulate your own budget, and it goes in just as does the budget of the Supreme Court for submission to you. I think it is proper that you should have the power to disallow any expenses that we may set up in our budget. It seems to me that this power should rest with the Congress and not with the Executive.

Fortunately, there is agreement, at this time, between the executive department and the judiciary as to the making of this change. I think it important that it be made now so there will be no danger of conflict in the future.

Honorable Arthur Vanderbilt, former President of the American Bar Association and Honorable George M. Morris of Washington, D. C., former Chairman of the House of Delegates of the American Bar Association, and a representative from the Attorney General's office, were also present and testified in support of the bill before the committee.

From my observation the circuit and district judges of the Federal courts are highly pleased with the provisions of this bill, and it appears to be working with great efficiency.

At the Federal judges conference the delegate members of the bar from various states within the circuit are assigned a part on the program and have a voice and a vote in the proceedings, and many statutes and rules have been changed through recommendations of the judges conference after, through experience, they were found to be inequitable and unworkable, and each year the conference takes another step forward in the efficient administration of justice.

Last year we were privileged to have in attendance at the conference in New Orleans, Justice Hugo Black of the United States Supreme Court, and we urged him to attend the conference each year so that he would not lose the touch of Southern tradition and our Southern way of life.

Judge Samuel H. Sibley, Senior Circuit Judge from Atlanta, Georgia, until this year, has presided over this conference with much credit to himself and to the bench and bar of the circuit. He has now retired and Judge Joseph C. Hutcheson, Jr. of Houston, Texas, who is now Senior Circuit Judge, will preside over the conference.

Incidentally, Judge Hutcheson served as chairman, I believe, of the Palestine Commission when the United States and Great Britain sent a mission to Palestine to study and recommend a plan for handling the problem between the Arabs and the Jews. Judge Hutcheson is an able jurist and we look forward to continued progress under his leadership.

I thank you for your patience.

Honorable W. Calvin Wells of Jackson, a past-president of the State Bar, having been requested by President Robertson to present a paper on a timely topic, was then introduced and delivered the following address:

IS THE SOUTH TO BE CALLED UPON TO ENDURE A SECOND TRAGIC ERA?

Many, even in the South, of the present generation do not begin to conceive of the iniquity and horror of the oppressions and humiliations imposed upon the South, beginning at the end of the Civil War in 1865 and extending up until 1877.

The name "TRAGIC ERA" was coined in his book by that name, published in 1929, by one Claude G. Bowers, well known as a most distinguished historian. Therein he laid bare the infamy of the humiliation, robbery, and murder endured by the people of the South at the hands of the negroes led by so-called scallawags and carpetbaggers. The scallawags were the people of the South who sold their souls for a mess of pottage and joined in the plundering of the helpless people of the South along with the negroes then in power who were directed and guided by such scallawags and carpetbaggers—the latter being the Northern people who came South to share in the plunder.

No one can conceive of the extent of such barbarities inflicted on the South during that period unless he acquaints himself therewith—especially as shown in the book above referred to—THE TRAGIC ERA.

In the preface of that book (page *vi*) the following is found:

> I have sought to re-create the black and bloody drama of these years, to show the leaders of the fighting factions at close range, to picture the moving masses, both whites and blacks, in North and South, surging crazily under the influence of the poisonous propaganda on which they were fed.
>
> That the Southern people literally were put to the torture is vaguely understood, but even historians have shrunk from the unhappy task of showing us the torture chambers. Brutal men, inspired by personal ambition or party motives, assumed the pose of philanthropists and patriots, and thus deceived and misguided vast numbers of well-meaning people in the North.

The question which faces the South today is whether or not there shall be passed by the Congress of the United States the so-called Civil Rights bills, especially those three, to-wit: (1) the mis-named Fair Employment Practice Act, popularly known as the FEPC; (2) the anti-poll tax bill; and (3) the anti-lynching bill. If these infamous bills are passed, as surely as the night follows the day the South will be subjected to a Bureau, uncontrolled by the Courts, but with gestapo agents all through the South persecuting, imprisoning, fining, and humiliating the people of the South.

The fact that these bills are in palpable violation of the Constitution of the United States, as heretofore expressly held, as will hereinafter be shown, does not seem to deter those who, posing as philanthropists and

patriots, are undertaking to secure the passage of those bills and thereby purchase the votes of those negroes and communists who, while a small minority of the people of the United States, in some States claim and perhaps hold the balance of power in the election of the officials both of the States and of the Nation.

If and should these bills be passed, and then finally approved by the Supreme Court as constitutional, (which present Court has been condemned by an eminent Senator of the United States as being judicially dishonest) nevertheless the result would be just as much a purchase of the ballots of these minorities as was the purchase of votes in dollars and cents in the South, by which were corrupted the various Legislatures and Courts under the infamous reign existing during the Tragic Era.

It matters not that both the leaders of the Democratic party and of the Republican party, and the President now in power, are urging the passage of those laws. The fact remains that such laws are infamous, as will be hereinafter shown, and in palpable violation of the decisions of the Supreme Court of the United States in the past.

After the Civil War the Democratic party in the North at least sympathized with the South while it suffered under the oppressions and tyranny then imposed on the South, and which were actually imposed on the South by the Republican party then in power. And when finally the people of the North became convinced of the infamy being perpetrated on the South and elected a Democratic House of Representatives—ever since the people of the South have voted the Democratic ticket in gratitude for the assistance given them in that tragic time.

Now, however, with some three million negroes having gone from the South to the North and been bought to desert the Republican party and to vote the Democratic ticket in States where apparently the negroes and communists hold the balance of power, our Democratic brethren in the North have abandoned us of the South, thinking (as they had the reason to believe in the past) that the South would continue to vote the Democratic ticket in the coming elections, and that in fact the votes of the Solid South are already in the bag for whoever shall be nominated as the Democratic candidates.

At long last, however, the South is in rebellion against this tyranny of those in control of the Democratic party for the last few years. Since there has been placed in the platform of the Democratic party the passage of these so-called Civil Rights Bills, and since a Democratic President has appointed a packed committee whose views he knew in advance would be in favor of the passage of those Civil Rights Bills, and that committee has brought in a report, just as the President thought it would, urging the passage of these bills,—now, at last, as stated above, the South has rebelled.

None other than our own Fielding L. Wright, Governor of the State of Mississippi, has led in the revolt from this tyranny. Our two United States Senators, J. O. Eastland and John C. Stennis, have themselves, both on the floor of the Senate and before Committees of the Congress, and in the public press, declared that they, representing the State of Mississippi, and the State of Mississippi, are in open revolt, and that

they will do every possible thing that they can do, legally and properly, to prevent the passage of these three infamous acts.

In the time allotted for this paper, it will be impossible to review and show up fully the infamy of these acts. Not only will these acts, if enacted and approved by the Supreme Court of the United States, bring a Second Tragic Era to the South, but such acts will finally make clear that the United States Government is no longer what it was intended to be, as set forth in the Constitution of the United States which grants only limited powers to the Federal Government and which reserves all other powers to the States and to the people of the States.

Hereinafter will be set forth a demonstration of this statement of fact. The people of the United States, not only in the South but throughout the Union, would unquestionably defeat these measures if they understood the inevitable effect thereof. The greatness of the Government of the United States, as set forth in the Constitution, really was made evident and came to pass by the separation of the national powers ceded to the Federal Government from all other powers reserved to the States and to the people. As a result thereof, these local matters and customs and habits of the varying people in the great expanse of the United States could be preserved, and local laws enacted. Thus, the customs and ideals of each State, though different from those of the other States, could be maintained, and the various sovereign States, when combined together, could make a great and happy nation.

At last, as hereinabove stated, not only have our Governor and our two United States Senators, but also our seven able Representatives, to-wit: Whittington, Colmer, Abernethy, Winstead, Rankin, Whitten, and Williams,—and the grass-root peoples of the State, come to the parting of the ways with the Democratic party because that party persists in its persecution of the South and because of its avowed intention of enforcing upon the South a Second Tragic Era.

Up to this point in this address I have referred to the disastrous effect to be had on the people of the South, but, as I shall show hereinafter, while the South under these monstrous proposed laws will suffer (especially under the FEPC) as the South suffered in the Reconstruction Days of 1866 to 1877, nevertheless, the South will not be the only sufferer—the whole of the peoples of the United States will likewise suffer in the loss of liberties.

The proponents of these measures who intend to destroy and humiliate the South, will destroy the whole temple of the Government of the United States, and will pull down over their own heads the whole structure as heretofore contemplated and built up under the Constitution of the United States.

These proposed laws are in palpable violation of the Constitution of the United States as it now exists. No effort is being made to amend the Constitution in the manner and form as provided by the Constitution. Apparently the effort is to pass those laws in the face of and in defiance of previous decisions of the Court holding such acts absolutely void. Those members of Congress who vote for such laws are violating their sworn oaths to uphold the Constitution.

Of course, if they succeed in the passage of those laws, and they are upheld as constitutional, then the bars are down, and the Congress of the United States can, under its supposed police powers or under the Interstate Commerce provisions of the Constitution, enact any laws it sees fit.

Hereinafter I shall quote from some distinguished authors as to what will be the effect of such a palpable violation of the Constitution and the result thereof.

Let us consider first the anti-poll tax bill. This bill, if enacted and sustained, would determine the qualifications or prohibition of qualifications requisite to be had by the electors or voters who would vote for Federal officers. It takes no great Constitutional lawyer to show how this law contravenes the Constitution of the United States.

In Section II of Article I of the United States Constitution appears the following provision:

> 1. The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Of course, it is perfectly palpable that this Section means that the qualifications provided by the State laws or State Constitution as to who shall vote for members of the House of Representatives of the State shall be the qualifications of the electors who will vote for the members of the House of Representatives of the Congress of the United States.

Under the 17th Amendment to the Constitution of the United States the same qualifications are prescribed for electors who will elect United States Senators.

Now, in Mississippi what are the qualifications requisite for electors voting for the members of the House of Representatives of the State of Mississippi?

In the Constitution of Mississippi some of these qualifications are given, in Sections 241, 242, and 244. In Section 241 appears among others the following qualification, to-wit:

> Every inhabitant of this State . . . who has paid on or before the first day of February of the year in which he shall offer to vote all poll taxes which may have been legally required of him and which he has had an opportunity of paying according to law for the two preceding years, and who shall produce to the officers holding the election satisfactory evidence that he has paid such taxes, is declared to be a qualified elector; . . .

What could be plainer than that an elector of the State of Mississippi, qualified to vote for a state representative, must have paid his poll taxes as aforesaid?

Now, is there anything confusing or uncertain or ambiguous or requiring any master mind to understand what that means? No. It is perfectly clear that that qualification of paying poll taxes is one of the

qualifications requisite for such electors, both as to state elections and as to federal elections for members of the Congress.

Now, this proposed anti-poll tax bill undertakes to do away with this qualification requisite for the electors of the most numerous branch of the State Legislature, namely, the House of Representatives.

Of course, an amendment could be offered to the Constitution of the United States in regular form provided for by that instrument,—first to be voted for by 2/3rds of both Houses of the Congress, and afterwards to be voted for by ¾ths of the various States, and then inserted in the Constitution by the Congress of the United States. The manner of so doing is provided in Article V of the Constitution of the United States, the substance of which is that above given.

The proponents of the anti-poll tax bill know full well that no such Amendment to the Constitution could be obtained. Therefore, they propose to effectuate their infamies by violating the Constitution. What is the Constitution between friends, especially if the question has to do in some way, directly or indirectly, with the suffrage of a negro?

The poll tax requirement in the Constitution of Mississippi applies equally to negroes and whites, and every dollar of the poll tax so collected must go into the fund providing for the support of public schools.

While this Section II, Article I, above quoted needs no interpretation at the hands of any Court, because it is so plain and unambiguous, nevertheless the Supreme Court has in several cases held it to mean exactly what it says, and especially in the case of *Minor v. Happersett,* 21 Wall. 162, 22 L. ed. 627, which held as follows:

> If the right of suffrage is one of the necessary privileges of a citizen of the United States, then the Constitution and laws of Missouri confining it to men are in violation of the Constitution of the United States, as amended, and consequently void. The direct question is, therefore, presented whether all citizens are necessarily voters.
>
> The Constitution does not define the privileges and immunities of citizens. For that definition we must look elsewhere. In this case we need not determine what they are, but only whether suffrage is necessarily one of them.
>
> It certainly is nowhere made so in express terms. The United States has no voters in the States of its own creation. The elective officers of the United States are all elected directly or indirectly by the voters. The members of the House of Representatives are to be chosen by the people of the States, and the electors in each State must have the qualifications requisite for electors of the most numerous branch of the State Legislature. . . .

To the same effect are the holdings in the cases of *Ex Parte Yarbrough,* 110 U. S. 651, 28 L. ed. 274, and *Pope v. Williams,* 193 U. S. 621, 48 L. ed. 817.

As above stated, therefore, the provision in the Constitution of Mississippi making the payment of a poll tax a prerequisite to the right of

franchise, being applicable alike to both whites and negroes, it is absolutely valid, binding, and controlling.

A splendid argument in favor of the legality and propriety of the requirement of payment of a poll tax, and the illegality or unconstitutionality of the anti-poll tax bill, was made by our own Senator John C. Stennis on February 27, 1948, before a sub-committee of the Rules Committee of the Senate of the United States. Limitation of time prevents me from quoting from his argument on the floor of the Senate on March 4, 1948.

Turning now to the proposed anti-lynching bill, it seems to me that the anti-lynching bill is the most absurd, fool effort at legislation that has ever been sought at the hands of the United States Senate. Of course, no right-thinking man approves of lynching, nor does he approve of murder, which is a form of lynching, nor does he approve of rape nor any of the other felonies. By the growth of an enlightened Christian conscience lynching has almost become a thing of the past. In 1946 there were six lynchings (more correctly two lynchings); in 1947, there was one lynching; and the number of those lynched has been so steadily declining as to reach practically the vanishing point. Every State in the Union has a law against lynching. But the Federal Government, having no general police powers, they being reserved to the States, has no right constitutionally to enact any anti-lynching bills. At the present time, when in every newspaper in the land, over every broadcast on the radio, in every magazine published from day to day, we are notified that the world is sitting on a powder keg, with fools brandishing around it, burning fagots, the Congress of the United States is now called upon to take the time of its 96 Senators and its 435 members of the House of Representatives to undertake to pass an unconstitutional law to stop a practically non-existent evil. Remember, too, that it has been made definitely known by the Southern Senators that—call it filibuster or whatever it may be called—they will make every legal effort to prevent its passage.

On March 23, 1948, Senator Clyde R. Hoey of North Carolina spoke over the Mutual Broadcasting System on the subject of the anti-lynching bill, in part as follows:

> Every good citizen in America is opposed to lynching. This is especially true in the South where every good citizen is not only passively against it, but affirmatively interested in doing something about it, and as a result of this vigorous and wholesome attitude lynching is now practically extinct. It has been outlawed by public opinion and the people and the officials cooperate fully in an effort to completely stamp it out.
>
> The Tuskegee Institute says that 31 attempted or threatened lynchings were prevented last year by local and State officials and the public. This result could not have been achieved by any Federal statute.
>
> Every State in the Union has a strong law against lynching and these laws are better enforced than any other criminal statutes. Let's examine the record. In 1892 there were 255 lynchings

in the United States—100 white and 155 colored. The crimes for which men were lynched ranged all the way from cattle stealing to murder and rape. Twenty-nine years later, in 1921, the number of lynchings had been reduced to 64. By 1935 the number was still further reduced to 20. And coming down to this decade the largest number in any one year was six. In 1943, there were three lynchings; in 1944, two; in 1945, one; in 1946, six. As to those six lynchings in 1946, only two should be classed as lynchings, for four people in a car were waylaid and killed when they were driving from town to their homes in the country. That was a murder, rather than a lynching. In the year 1947 there was just one. There has not been a lynching in my state of North Carolina for 12 years.

Think about it—out of 145,000,000 people in the United States, only one person was lynched last year. What other criminal statute, state or federal, was so well obeyed. While there was only one lynching last year, there were over 13,000 murders; over 12,000 rapes; and over 1,500,000 of serious crimes, denominated as felonies, committed in the United States. That means that there was an average of 36 murders and 33 rapes every day last year, and three felonies every minute.

Have you heard any demand from the Committee on Civil Rights that the Federal Government do anything about this—although many of these crimes were the most brutal and revolting ever committed in our land.

Ten years ago the late great Senator William E. Borah, a sturdy defender of Civil Rights, said in discussing a proposed anti-lynch bill:

"When I read of the terrible things that happened in the South after the Civil War, I wonder now how the South has done such remarkable work in the way of recovery. . . . With all the hatred, the animosity, and the agony which came to the people, it is amazing to me that the crime of lynching has been gradually dying out. The people of the South have made a record of which they have a right to be proud. We could not improve upon what has been done. Why should we interfere now?

The proposals of the Civil Rights Committee invade the rights of every sovereign state in the nation and would result in supplanting cooperative good will by coercive ill-will in connection with our whole race relations. The passage of this measure would make the task more difficult and add immeasurably to the burden of every man in the South who is seeking to obtain equality of opportunity for the negro race, and maintain fairness and justice for him in all the relations of life."

Senator James O. Eastland, speaking in the Senate on March 9, 1948, offered certain amendments to the anti-lynching bill, which would put on the spot every Senator who undertakes to vote for this anti-lynching bill and then votes against these proposed amendments. In part, Senator Eastland spoke as follows:

Mr. President, there is only one-thirtieth of one percent as many lynchings in this country as there are murders. The statistics show that in 1900 there were 115 lynchings; in 1910 there were 76; in 1920 there were 61; in 1930 there were 21; in 1940 there were five; in 1944 there were two; in 1945 there was only one lynching; in 1946 there were six lynchings, and in 1947 there was only one lynching. (Four of the six lynchings in 1946 were in truth just plain murders with no elements of a lynching therein.)

There are practically no lynchings in this country, yet the Congress, at the darkest hour in the history of our country, is asked to take up days and weeks in an attempt to influence the votes of a minority group in the coming election by action on such a measure as the anti-lynching bill.

The bill does not seek really to give protection to the people involved. What are the facts? In 1946, in the country as a whole, there were 8,444 cases of murder and manslaughter, 12,117 women were raped, there were 62,782 cases of robbery, there were 229,920 automobile thefts, there were 357,991 burglary cases, there were 941,738 larceny cases.

Much of the agitation for a Federal anti-lynching act comes from the city of New York, and in that city, in 1946, 325 murders, 14,525 lesser felonies, and a total of 698 other crimes, were committed in that one city. These figures are for one city, and for one year. In the entire United States in 1946, with 140,000,000 people, there were only six lynchings (and, in fact, only two, as above stated, can justly be termed lynchings). Yet no cry comes to us to give the people of the city of New York adequate police protection.

Recently there appeared in the INDIANOLA ENTERPRISE and in the JACKSON DAILY NEWS a short, succinct article written by one of the most distinguished Judges and lawyers in the State of Mississippi, Judge Frank E. Everett. This had to do with the constitutionality of these so-called Civil Rights bills. By Judge Everett's permission I quote briefly from his article, as follows:

First, Truman proposes in the Civil Rights Statute or Act to prohibit segregation of negroes and whites in hotels, theatres, churches, schools, busses, railway coaches, etc., and to place the races—whites, negroes, Chinese, Japs, and all—into one melting pot. And, second, he proposes to have a Federal statute creating a Fair Employment Practices Commission, by which a man in his individual business, would be subjected to a penalty by both a fine and a prison sentence if he refused to hire a negro in his business, instead of a white man.

Mr. Truman knows that such an act would be unconstitutional, and has been so held by the Supreme Court of the United States, as well as the courts of many states.

In March, 1875, shortly after the surrender, while tempers were high and prejudices against the South were rampant in the Congress of the United States, just such a Civil Rights Act was passed by Congress, which was as follows:

Sect. 1. That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land or waters, theatres and other public places of amusement—applicable alike to citizens of every race and color, regardless of any previous condition of servitude.

Sect. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons of law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense forfeit and pay the sum of $500.00 to the person aggrieved thereby to be recovered in an action of debt with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500.00 nor more than $1,000.00, or shall be imprisoned not less than 30 days nor more than one year.

Now that is the same Act, in effect, that Mr. Truman would have the present Congress to re-enact, except that Truman wants to go further. That, I will refer to later.

Article 10 of the Constitution of the United States provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the United States, are reserved to the States, respectively, or to the people.

Under the Act of March, 1875, above quoted, a number of cases were tried in various courts, seeking to enforce it and to force the white people to submit to its provisions by admitting negroes to their theatres, hotels, trains, etc., which cases were brought by the United States, seeking to enforce its own Congressional Act. These cases were:

United States v. Stanly, from the Federal Court of Kansas;

United States v. Ryan, from the Federal Court of California;

United States v. Nichols, from the Federal Court of Missouri;

United States v. Singleton, from the Federal Court of New York;

And *Richard Robinson and wife, Sally, v. Memphis and Charleston Railway Co.*

The above cases all found their way into the Supreme Court of the United States and were grouped together and tried

together as one, because they involved the identical question under the statute I have set out above. They are reported in 27 L. Ed. page 835, 109 U. S., pages 8 to 62. The Stanly and Nichols cases were indictments for denying to negroes the privilege and accommodations of hotels. The Ryan and Singleton cases were indictments for denying negroes the rights and privileges of their theatres. The case of Robinson and his wife was against the Memphis and Charleston Railway for denying them the privilege of riding in the white passenger car.

The Supreme Court, in each of the above cases, held the statute above quoted under which these cases were tried, and which Truman now demands to be re-enacted, to be wholly unconstitutional and in violation of Amendment to the Constitution which denied to Congress the privilege of passing such a law.

The Court said, speaking of Article 10:

It does not invest Congress with power to legislate upon subjects which are within the domain of state legislation. It does not authorize Congress to create a code of laws for the regulation of private rights.

In the case of *Plessy v. Ferguson,* 163 U. S. 537, 41 L. Ed. 256, Plessy, a negro, took his seat in a white compartment of a train in New Orleans, refused to move into the colored car when ordered by the conductor, and was arrested by a policeman and carried off to jail. When his case was to be heard he sued out an injunction against the court, alleging the law providing for separate coaches for negroes and whites was unconstitutional. He lost,—only one of the nine Judges dissenting.

In holding the segregation law constitutional, the Supreme Court of the United States, in discussing the various arguments in the case, said:

If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane. 41 L. Ed. 261.

These cases were decided at a time when the Supreme Court of the United States was composed wholly of Northern Republican judges. They were decided at a time when prejudice against the South was much greater than it is today.

At this point in my address I do not think it is out of place to quote Abraham Lincoln. In his speech delivered at Springfield, Ill., June 26, 1857, he spoke in part as follows:

I will say, then, that I am not, nor ever have been, in favor of bringing about in any way the social and political equality of the white and black races—that I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor to intermarry with white people, and I will say in addition to this that there is a physical difference between the white and black races which I believe will forever

> forbid the two races living together on terms of social and political equality, and inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race.

The most monstrous of the proposed so-called Civil Rights bills is the mis-named FEPC—Fair Employment Practices Commission. I believe that that title has become so ridiculous and so obnoxious to fair play in all well balanced minds, that Senator Ives in his new bill has given it a new name—I have forgotten what it is—but it is the old monstrous effort to control every act of every citizen of the United States as to what he thinks in his mind when he employs or discharges a person.

Time will not permit me to quote verbatim herein from the magnificient arguments made by Southern Senators against this iniquitous FEPC bill. For the most part, I will quote from able men who are not from the South, and who cannot, therefore, be charged as being partisan, biased, or prejudiced.

Surely, however, this address would be incomplete unless grateful reference be herein made to the determined, masterful address of the late Senator Theodore G. Bilbo, every word of which was directly in point, in his effort to defeat the enactment by the Congress of the FEPC bill. Call it filibuster—or what have you—it lasted for about a week—and largely was responsible, together with the efforts of other Southern Senators, for the defeat at that time of that proposed infamous act.

At the beginning of the administration of President Franklin D. Roosevelt he called to his assistance a man whom he apparently considered one of the great lawyers of the country, and made him his confidant and adviser. This man was Donald R. Richberg of New York. Afterward, Mr. Richberg became so convinced that certain of President Roosevelt's programs were unconstitutional and unwise that he withdrew from this confidential relationship. On March 30, 1948, Mr. Richberg broadcast a talk on Civil Rights over the Mutual Broadcasting System. This address, together with the address on the same program by Raymond Moley, one of our most distinguished economists and public writers, are among the most logical and irrefutable arguments ever delivered against the enactment of these co-called Civil Liberty laws. I would that time permitted me to give them to you in full in this paper. They are literally logically unanswerable. I am, however, attaching copies of each as addenda to this address, marking same Papers A and B.

When the FEPC bill (S. 101) was before the Senate, Senator Barkley of Kentucky, the Majority Leader of the Democratic party in the Senate, endorsed and supported the bill to the limit, and not a single Northern Democrat took the floor against the bill and on the side of the South. However, a number of prominent Republicans strongly attacked the bill as unsound, unconstitutional, and without merit. I shall quote briefly from a few of these:

Senator Hawkes, of New Jersey, according to the Congressional Record, February 1, 1946, page 731, spoke in part as follows:

> If I thought for one moment that fair employment practices could be established by law without a destruction of our American system of free enterprise, I would not be standing here discussing the subject today. My whole experience in life and what understanding I have of the Constitution of the United States, and the American method of making a living, which has grown up under the Constitution and has produced the highest living standards in the world, as well as the power to bring victory against our enemies who would destroy individual freedom, tell me in no mistakable terms that if we destroy by law the right of free choice in hiring, discharging, or promoting employees, it will be one more step in the destruction of our great American system of business and industry which is based upon ability to produce and sell in competition so that the ultimate consumer receives the benefit to which he is entitled.
>
> In my opinion this controversial bill should never have been brought to the Senate at such a time as the present, when the world is on fire and there are so many more important problems awaiting the consideration and action of this great body, the United States Senate.

Likewise, Senator Moore, according to the Congressional Record of February 5, 1946, (page 911) spoke in part as follows:

> Mr. President, I have just read the bill which is under consideration, and it seems to me that it would totally destroy inducement of any kind for an industry to try to function under it. Under the private enterprise system, of course, private industry is operated for profit.
>
> Apropos of some of the objections which are made to the bill under consideration, without considering what may have been the practice of some employers with reference to the employment of members of certain races or creeds, the bill is so destructive of the freedom which is needed in private enterprise that it would practically destroy private enterprise.

In what was said to be one of the most masterly speeches ever delivered on the floor of the Senate, Senator Millikin, of Colorado, as shown by Congressional Record, February 9, 1946, (pages 1238-1240) spoke in part as follows, to-wit:

> From the face of the bill I saw that almost every sentence of it is redolent of conceptions and procedures which in my judgment do not square with the American system of government, and therefore I voted against its present consideration.
>
> I shall always be glad that I did so, for if at any place in the procedure of the Senate I am given the opportunity of free choice of what shall come here, and what shall stay here, how long it shall stay here, what consideration it shall receive while here, I expect to aline my vote against the possibility, remote as it may be, of the triumph of the kind of transparent viciousness that is concentrated and multiplied in this bill.

The bill, with false proclamations, expands to the vanishing point the already grotesquely over-expanded commerce clause of the Federal Constitution.

Whatever may be said against discrimination because of race, creed, color, national origin, or ancestry, there is nothing in our history to give validity to what I submit is the real theory of the bill, that a citizen has the right to work because of his race, creed, color, national origin, or ancestry, or has the right to work for a particular employer.

What is the standard for determining a specific case of discrimination? The act is silent. It comes to this: Unless the ridiculous task of trying to create the composite man is undertaken on an arbitrary and automatic basis and independent of actual motive, we must run an inquest on the mind of the employer and also on the mind of the employee.

And that to my mind is the most vulnerable and offensive part of the bill. How much blood must be spilled, how much hatred and discrimination must be accentuated, how much ugly human history must be endured and repeated before we learn law cannot and should not coerce conformity in human thinking.

This bill bludgeons the spirit of numerous provisions of our Federal Constitution. Its cavalier indifference to protective venue provisions for the citizen is an example. Its failure to provide a jury trial for an alleged violator, its failure to provide the accused with the right to confront and cross-examine the witnesses against him, are others. Its non-existing standards of admissible evidence is another example. The use of hearsay, ex-parte affidavits and unsworn statements are not precluded. And in this connection please do not forget that the use of such so-called evidence against a citizen is not without precedent among our Government agencies.

About this same time, Senator Wiley, of Wisconsin, according to the Congressional Record of February 8, 1946, (pages 1158, 1159) spoke in part as follows:

I oppose this bill:

1. Because this bill is a misnomer like so many other high sounding New Deal quack bills. It would not create fair employment practices but rather would stimulate unfair employment practices.

2. This bill would create prejudice instead of ending it.

3. This bill is one more example of the worship of legislation as a panacea.

4. This bill would create a super gestapo in every corner of our land, a gestapo which would destroy the constitutional rights of American citizens, which would drain the Federal Treasury of needed revenue, which would make life miserable

for countless employers, which would be a dangerous instrument in the hands of spiteful and vicious individuals and business competitors. This bill would be a dangerous instrument for stateism.

Mr. President, many Senators charge that provisions of the bill go beyond and are in violation of constitutional powers, of rights secured to our people by our American Bill of Rights and of the ethnos of our people and institutions.

Mr. President, these charges are but some of the many leveled at the bill. If they are justified, they are an unanswerable indictment of the proposed legislation. I am persuaded of the substantial truth of these criticisms.

But these particular arguments do not stand alone, nor are they the most persuasive.

Mr. President, in most instances in which boards or commissions are established with regulatory and quasi-judicial powers, provision is made that they shall be bipartisan in person and character.

This is sound policy and right principle. It respects our idea of checks and balances in government. It assures expression of divergent views, and contributes to right determinations. In the pending bill this principle is completely repudiated, and instead of bipartisanship, section 5 permits all five members of the Commission to be of one race, one creed, one religion, one ancestry, one political party. I believe this possibility challenges every principle asserted in behalf of the proposed legislation. If we are against the grant of such power, the reposing of such power in the Executive, why give it to the Executive?

Mr. President, the bill declares to be an offense that which, in the overwhelming number of cases, can never be proved. Who can know that I refuse to hire, that I discharge, or that I discriminate against any person, because of his race, or creed, color, origin, or ancestry? My motive is locked within my own mind, and, except in very rare instances, motive can never be proved.

The bill declares its lost faith in the efforts of Christian generations to build a world of tolerance, of knowledge, of good will, and of brotherhood. It substitutes for the humane and kindly spirit of men the fear and the compulsion of law. Threat, dictation, compulsion of sword, or force of law have never aided man as he has struggled through the long centuries to make this a better and happier world for all mankind. This bill has not in it the sympathty and the warmth of the human heart. It must fail, therefore, of its professed purposes.

Finally, Mr. President, the bill creates another huge agency of a central Government which seeks always, and always exercises, restrictive and tyrannical powers over the social, financial, industrial, and political lives of a people. Here in America,

warning of the loss of a people's freedom is seen all along the way we travel. These clear trends must be stopped if our America is to be saved.

About the beginning of World War II a bunch of negroes threatened the President of the United States that unless he issued an Executive Order providing for abolition of segregation of whites from negroes, they would have 100,000 negroes organized to march on the City of Washington and demand that Congress pass FEPC legislation. Under this threat of trouble, the President issued Executive Orders creating that Committee. From the very beginning of the organization of the Committee, and later of the Commission, the President or those under him stacked the officers and employees thereof with a majority of negroes. At one time on this Commission there were employed 112 persons, of whom 64 were negroes. In the Washington headquarters where the final authority was exercised there were 49 employed of whom 38 were negroes and 11 were white. In the Division of Field Operation there were 3 white people and 6 negroes. In the Division of Review and Analysis there were 2 whites and 6 negroes. In the Division of Budget and Administration there were 11 negroes and no whites. In the Division of Mail and Files there were 6 negroes and no whites. In the Division of Law there were 2 negroes and 1 white person. In the Division of Information there were 2 negroes and no whites. And in the Regional Office at Washington, D. C., there were 5 negroes and 1 white person.

From July 1, 1943, to May 31, 1944, about 81% of the complaints were negro cases.

Thus, by a Federal Bureau staffed largely by members of minority groups, their duty was to sit in judgment on complaints made by those same minority groups. A Southern employer had about as much chance to have a fair and impartial hearing before this outfit as a snow-ball in hell. Moreover, in the House and Senate bills which were before the 79th Congress to make the Committee a permanent Federal Bureau, all the old officers and employees hereinabove described were to be transferred to the new Fair Employment Practices Commission.

There were developed in a booklet prepared by this outfit definitions of discriminatory practices and procedures which were declared unlawful. Time does not permit me to give a description of the outrages which would be possible under the definitions prescribed in such regulations. Suffice it to say that if this bill is passed now, and those same or similar regulations are put in force, truly the second Tragic Era of the South will begin.

I wish I had time to give here the history of the infamy of some of the decisions of this outfit. I shall refer briefly to the Philadelphia Transit Company case, which company had over 6,000 employees, all belonging to a union, and the relationship between the company and the union had been pleasant and amicable from the beginning. The existing contract between the employees and the company had been in force 8 years. However, during the war, on demand of certain negroes, the FEPC proceeded against the company on its contract and demanded its cancellation. The company refused and the union refused. Then the employees belonging to the union struck against complying with the demands of the FEPC

as to making negroes motormen and conductors where before all had been white. No complaint had come from the negro employees of the company. The whole initiative was taken by the Federal Government through this FEPC. When the strike took place the FEPC had the United States Army to come in with armored cars, tanks, small cannon, tommy guns, live ammunition, and soldiers with fixed bayonets. The strikers were all notified to return to work or be drafted into the military forces to be black-listed so that they could work nowhere else. The Attorney General of the United States convened a special grand jury to indict all of those employees for violation of a United States regulation. Of course, the strike was broken.

Time does not permit a statement as to the outrageous procedure in the *U. S. Cartridge Company* case in St. Louis, Mo.

In those two cases, tyranny comparable only with Communistic Russia or Nazi Germany took place, and both of them in the North. But with an army of gestapo agents sent into the South to pass on every motive each time we employ or discharge a negro, imagine what a situation would exist here!

Conclusion

In conclusion, just at the time of the preparation of this address, it appears that no one knows what a day will bring forth. At any time, Russia, by acts of aggression and war and murder may bring us into war with her. This, of course, God forbid. But whether war comes or not, is there not enough sober, sound judgment in the hearts and minds of the members of Congress to prevent such chaos and confusion in our land as would inevitably ensue if and should these infamous, mis-called Civil Rights bills be enacted into law?

God grant to us such members of Congress at such a time as this.

PAPER A.

Radio Talk on "Civil Rights" by Donald R. Richberg, Mutual Broadcasting System at 10:00 P.M. Tuesday, Mar. 30, 1948.

Anyone who expects me to make a speech tonight against civil rights or against their enforcement is going to be disappointed. The civil rights of American citizens should be enforced—regardless of race, color, religion or ancestry.

But here are two difficult questions:

What are these civil rights?

How can they be enforced?

Let's not make the mistake of thinking that, whenever we have a right to do something, we must have a "civil right" to do it.

If I have a *civil* right, it must be a *legal* right, that is, a right which is written down in a law and which I can call upon the government to enforce.

Our fundamental civil right is individual liberty—but that does not give me freedom to injure you, nor give you freedom to compel me to serve you. My civil liberty, guaranteed by the Constitution, is largely a right to be let alone—a right to speak freely, to practice my religion, to choose my own friends and associates, and to earn my living in any lawful business.

Let's also understand that every moral right cannot be made a civil right. You have a moral right to kind treatment by friends and relatives whom you have helped. But, no government could make that a civil right.

Even a moral right that might be made a civil right, is not a civil right until a government declares it in a law, and provides for its enforcement.

We have two kinds of government in the United States, a national government and forty-eight state governments. Each one has separate and limited powers granted by the people when the people wrote our national and state constitutions. So we can't talk sensibly about civil rights unless we know which government has the power to create and enforce the particular civil right we want to enjoy. Is it the national government, or one of our state governments?

Now, please don't be impatient and say that it doesn't make any difference to you whether Congress grants you a legal right and the national government enforces it, or whether your state government does the job. If you will just listen to me for a few minutes I think I can prove to you that your freedom as an American citizen, and your future peace and prosperity, depend on keeping the powers of our national and state governments separate and restricted as they have been separated and restricted by the Constitution of the United States.

For example, under our Constitution the people did not give the national government any general police power, which is a broad authority to make laws to protect and promote the public safety, health, and general welfare. They gave that police power only to the state governments.

The police power is a very dangerous power. It can be used either to keep a people free and to help them prosper, or to make them the tax-ridden slaves of a tyrannical ruling class. The safety of the people lies in keeping local control of any government which has the police power—in having that government near to them, and operated by state, city, and county officials whom their neighbors know personally, whom they can watch and whom they can remove from office when they misbehave.

Our forefathers knew very well that a remote, national government, if it had the police power, might be made into a national police state—a national tyranny. So they definitely limited the powers of Congress in the Constitution; and then they wrote that all powers not granted to the national government were reserved to the states or to the people. They not only limited the powers of Congress, but they also flatly prohibited Congress from making a great many laws, such as laws to restrict free speech, a free press, or the free exercise of religion.

Recently, the President's Committee on Civil Rights made a report urging Congress to make a lot of new laws to enforce some old rights and to create some new ones. Congress has been given the power in the Constitution to make *some* of the laws which the Committee recommended. Time will not permit me to discuss the *wisdom* of all these recommended laws. Tonight I will try only to explain why I believe that *one law* which the Committee approved, not only would be a very bad law, but also is a law which the Congress has no power, and has been expressly forbidden, to enact.

I oppose the enactment of a national fair employment practice act like the one now being considered by the Senate in the Ives bill (S. 984).

This proposed law would make it unlawful for a private employer to refuse to hire, or to discharge, any person, or to discriminate against him in promotion or other conditions of employment, because of his race, religion, color, or ancestry.

We might have a long argument as to whether men ought to be, and can be, prevented by law from acting in accordance with ancient, deep-rooted preferences or dislikes, based on race or religion.

We might have a long argument over the wisdom of having the national government send out from Washington thousands of petty officials to investigate and regulate millions of daily decisions of employers throughout the United States, in hiring, discharging, promoting, and otherwise dealing with millions upon millions of employees. Or you might agree with me, quickly, that this is a crazy, unworkable scheme.

But I have time tonight only to explain briefly: First, why Congress, if it had the power, should not make a law giving anyone a civil right—that is, a legal right—to be given private employment by a man who does not want to employ him. Second, that Congress has been given no power, but has been expressly forbidden to make such a law.

Now let me point out again that a moral right cannot always be made a civil right; and that one man cannot be given a civil right to destroy the civil rights of another man.

A right to life is certainly a fundamental civil right; and the ability to get food and drink is essential to life. You might argue, and I might agree, that you ought to have a civil right to have the government feed you, if necessary. But, I hope you will not argue that you should have a civil right to compel any private citizen to whom you applied, to provide you indefinitely with food and drink. For the same reason no one should contend that a moral right to earn a living provides the basis for creating in anyone a civil right to compel a private citizen to employ him in a private business. I hope, by the way, it will be admitted that making it unlawful for you to refuse to hire a man is simply a way of compelling you to hire him!

Everyone will agree that you have a moral right to get married, that is, assuming that you are physically fit for marriage. But, I don't believe you would ask the government to give you a civil right to be married, which would be enforced by punishing anyone who refused to marry you. Nor would you ask the government to make a law providing that no man

or woman should refuse to marry anyone because of the race, religion, color or ancestry of the person proposing marriage.

Everyone will agree that such a law would violate our constitutional guarantees of individual liberty, freedom of association, and a free exercise of religion; and would destroy the sacred institution of marriage.

But, this proposed anti-discrimination law would be equally destructive to economic liberty and the maintenance of private business. Although less offensive than enforced marriage, compulsory association in business would have a similar effect in denying civil rights of individual liberty, freedom of association and a free exercise of religion, and in destroying our economic system of free enterprise and private property. The manager of a private business has a civil right, a civil liberty, written in our national constitution, to use his own judgment in choosing his associates and employees, with whom he will make contracts. Under such contracts employees are given the right to use private property, and the employer accepts legal obligations to pay them wages and to protect their health and safety. Under these contracts he is bound to serve them, just as they serve him, and, by law he is made responsible for their acts as his agents.

To compel an employer to make contracts of mutual service with persons with whom he is, for any reason, unwilling to make contracts, is to force him to accept an involuntary servitude, which the Constitution declares shall not exist in the United States.

If the government had the power to force all private employers when dealing with employees, to apply only the standards of judgment, and to act only upon the motives, which were approved by Congress, then private management would soon be so crippled and shackled that it would be better to let the government run all industries and accept the responsibility for the results.

This ultimate destruction of private business is of course the objective of communists, who enthusiastically support this anti-discrimination act. They run true to form in clamoring for fraudulent civil rights through which eventually all real civil liberties are to be destroyed.

Don't let anyone tell you that the legal objections to a national anti-discrimination law are just lawyer arguments to defeat a beneficent law and to maintain an out-of-date theory of states' rights. This law would destroy long-established civil rights of tremendous, proven value. Rights which are vital to the happiness and prosperity of all of us would be destroyed in order to create a new right of very doubtful value to anyone.

This law would violate the civil rights of both employers and employees—the rights of free speech, a free press and a free exercise of religion, which are guaranteed by the First Amendment.

This law would violate the civil rights of liberty of contract and freedom of association, which are guaranteed by the Fifth Amendment.

This law would not only permit, but actually compel, involuntary servitude which is prohibited by the Thirteenth Amendment.

This law would be an attempt by the National Government to exercise the police power which is reserved to our state governments by the Tenth Amendment.

Thus, by ignoring and deliberately violating the Constitution, Congress, in this law, would undertake to establish a national police state. No wonder this anti-discrimination law is a main plank in the communist platform. But, why, oh why! do liberal minded men and women who hate and fear communism—permit themselves to be deluded by noble emotions into giving to communists this incalculable aid in their efforts to destroy our constitutional safeguards of private business, individual liberty and self-government?

A cry comes echoing down the years: "Father, forgive them; for they know not what they do."

PAPER B.

RADIO TALK ON "CIVIL RIGHTS" BY RAYMOND MOLEY, MUTUAL BROADCASTING SYSTEM AT 10:00 P.M., TUESDAY, MARCH 30, 1948.

In considering the President's civil rights program, I am speaking as a northerner. Every root that I have is embedded in the Unionist North. I shall, however, try to point out the position of the South in this controversy. It should not be necessary for those directly concerned to fight this battle alone. We are, first of all, Americans. And if Americans can find no way to peace at home, they are poor ministers of peace in an unhappy world abroad.

I am not approaching this subject from a political angle. But this I want to say. I saw at first hand, as did Don Richberg who was in Washington with me in 1933 and who has just spoken, the laying of the basis of Democratic policy. This policy continued for 15 years and finally put Mr. Truman in the White House. When that foundation was laid in Roosevelt's first term, there were no more loyal workers than those Southern Senators and Congressmen who are now driven into revolt. Their reward for their loyalty to Roosevelt is to have another President hand to Congress for enactment a program largely created by people who were never Democrats at all. This is not only ingratitude, it is an affront to the intelligent and loyal citizens of a dozen states. They are constructively trying to solve a problem that the President wants to meet by coercion and legislative fiat.

This problem of civil rights should not be made a political issue. Its bearing on deeply felt emotions, its nation-wide significance, and the moral values involved should lift it above a squabble for political advantage. But the President, by raising it now and in this manner, has made it a political issue. He has raised the suspicion that he has yielded to those who advise him that at all costs he must win the political support of northern cities and that the South has no option except to vote for him. Thus, a blinding political fog is thrown over a grave issue of broad national welfare.

It is northern interference in southern problems that gives strength down there to those demagogs and clowns who are occasionally elected

on waves of prejudice and hate. The enlightened people of the South tell us again and again that they can win if we in the North will only mind our own business.

But the crisis in the South created by the President's civil rights message calls for more than mutual recrimination and retaliation. But there is a constructive way out, if cool heads on both sides can prevail. Never since President Rutherford B. Hayes, 70 years ago, began to extinguish the burning ashes of civil war and reconstruction has there been more need for statesmanship in dealing with this issue.

The acute phase of the trouble started with the appointment in late 1946 of the President's Committee on Civil Rights. The crisis appeared with the publication of the committee's report in late 1947. The President's message last month rubber-stamped the committee's recommendations.

No one can quarrel with the humane objectives involved. No decent person, North or South, condones lynching or favors injustice, brutality or bigotry. Almost everyone wants more qualified people to vote. And few will deny the desirability of fair employment, better housing, and sound medical care for all.

But the committee and the President seem to have forgotten that the South's problem is not a pure question of logic and law. It involves a sense of bitter history and of personal and sectional pride. A good illustration of the bias of the committee is its apparent approval of the civil rights legislation passed between 1866 and 1875. This program, as every reader of history knows, was the creation of a radical Republican Congress inflamed by the passions of the Civil War. It was designed to humiliate and degrade a defeated army. It was a measure of Carthaginian peace. No broad-minded Northerners should want to recall that program or the sordid atmosphere of those dreadful years.

Today one cannot visit the South and not be profoundly impressed by the economic and intellectual renaissance going on there. Great universities are growing up. Products of the mind and imagination are pouring forth. Projects of social welfare are in the making. The very population is not only expanding but growing in character and distinction. Agriculture is beginning to throw off the chains of a single crop. Diversity in farming is increasing. And industry is expanding with incredible rapidity.

The President's Committee on Civil Rights was ex parte. The report was ex parte. It was by and for one side of the case. The committee was largely composed of northerners—northerners who will be regarded in the South as unfamiliar with southern problems.

The report shoots the works. Almost every controversial racial question which has rocked Congress in 20 years is included. In tone it is an unmitigated indictment of the South. In arrangement it is an affront, because the very first of its recommendations is for the impositions of a Federal police system penetrating into every corner of the South.

Don Richberg has properly told you of the danger of police power, especially of Federal police power. This report would set up a full division

of enforcement in the Department of Justice. Then it would set up eight or nine regional offices, manned by what the committee deceitfully calls skilled personnel, but which really means detectives and police agents. These would be the local arms of the Washington Gestapo. The report even goes so far as to recommend the setting up of police schools to train these operatives. Among other things, these training programs should—and I use the Committee's own word—"indoctrinate" these agents. "Indoctrinate" is a ward word—a police state work. It does not belong in the language of American states.

The report speaks again and again of our sister states in insufferably condescending terms. I quote: "It is a sound policy to use the idealism and prestige of our whole people to check the wayward tendencies—of a part of them." The majority of the Committee recommends the withholding of Federal grants in aid to force sovereign and taxpaying states to obey. This is exactly the sort of thing we are threatening to do to states behind the Iron Curtain. This must mean millions for Germany and not one cent for Georgia.

The President's report only grudgingly admits gains, although gains in the South have been significant. Lynching has, in fact, almost disappeared. The figures are 64 in 1921; three in 1939; and one in 1947. The poll tax and the white primary have been disappearing rapidly.

If the President felt that national unity was being impaired by discrimination and injustice, it would have been the act of a statesman to call together the leaders of southern states and to present these problems to them for solution. Instead of appointing a committee which, after all, discovered nothing new and said only what had been twice told, the President might have called the governors, senators, congressmen and unofficial leaders of these states and presented the problem to them. Under his leadership they might well and, I believe, they would have taken measures to accelerate the obvious progress already made.

In this, we are dealing with deeply rooted conditions which cannot be eradicated in a day. They require careful, measured, intelligent treatment by people thoroughly familiar with the facts. There are grounds for great hope that such efforts would succeed because they move with the tides of economic and political evolution.

It is not too late for the President to take this course. If, as he said in his message on *Communism,* he wants *unity,* here is a way he can attain it. But unity cannot be secured so long as some Americans threaten other Americans with outside pressure and punitive laws.

I speak for those millions of Americans who are not extremists on either side of this issue. We want what the Constitution calls domestic tranquility. And we want a President to help us get that domestic tranquility.

President Robertson, presiding, called attention to the requirement of the by-laws that the Commissioners appoint a study committee

> "whose duty it shall be to suggest to the Bar subjects for investigation and study looking towards the improvements of the courts,

the laws, and the administration of justice, and the said committee shall receive and consider suggestions relative to this from members of the State Bar. It shall be the duty of such committee to report their recommendations to the annual meeting of the State Bar."

President Robertson stated that the Commissioners of the State Bar selected a study committee composed of Justice of the Supreme Court L. A. Smith Sr., Chairman; Honorable John C. Satterfield, Jackson, Secretary; Circuit Judge J. F. Guynes, Hazlehurst; Chancellor Lester Clark, Hattiesburg; Honorable James T. Kendall, Assistant Attorney General, Jackson; Honorable O. B. Triplett, Forest, and Honorable Eugene Thompson, Marks.

The report of this study committee was presented by the Chairman of the Committee, *Judge L. A. Smith Sr.,* as follows:

REPORT OF STUDY COMMITTEE

To the Mississippi State Bar:

In order to carry out its purposes as far as possible, the Committee wrote to every member of the Mississippi State Bar asking for suggestions as to any needed changes in the statutes of this State affecting matters of particular interest to the legal profession, including conflicts, inaccuracies, omissions and inequities arising in connection with matters affecting the rights of persons in any manner coming before the courts and the quasi judicial and administrative bodies of this State. A very satisfying response was received to this letter.

As hereinafter mentioned, the committee considered a number of noncontroversial items and prepared suggested legislation covering the same during the regular session of the Legislature. A number of these matters were introduced and several were enacted. Several were passed by either the Senate or the House, but failed to be enacted into law.

We call attention of the Bar to such matters and also to additional suggestions which are submitted for the consideration of the Bar along with those matters which were not adopted by the Legislature. Numerous other suggestions were submitted, many of which the Committee considered meritorious. Some were not approved by the Committee for the reason that it appeared that the suggested situations were covered by other statutes, some because they did not fall within the field of law covered by the activity of the Committee, and some recommended to the succeeding Study Committee for further consideration.

The Committee recommends that all of the items mentioned below, which have not been enacted by the Legislature, be approved by the Mississippi State Bar and submitted to the next regular session of the Mississippi Legislature for its consideration, to-wit:

ITEM 1: The Committee obtained introduction of an act whereby the per diem remuneration of special judges was increased from $10.00 per day to $25.00 per day which was adopted by the Legislature. This reform has been long needed and will relieve in part the burden borne by

the members of the bar who perform a public service by sitting as special judges.

ITEM 2: In accordance with suggestion of O. B. Triplett, Jr., the Committee prepared an amendment to Section 1324 of the Code of 1942 which enables one who holds under a tax title to remove clouds upon his title as other persons can do without having to resort to Section 1314 dealing solely with confirmation of tax titles. The need of this amendment appears from the case of *Lamar Life Insurance Co. vs. Billups,* 175 M. 771, 169 So. 32. The last clause in the amendment was inserted for the reason that since the statute undertakes to give a tax purchaser or tax patentee a perfect title, he should be entitled to perfect the same as against any of the State's political subdivisions, if he has a paramount claim. This was enacted by the Legislature as House Bill 957. This act is as follows, to-wit:

> SECTION 1324. REMOVING CLOUDS UPON TITLES.—When a person not the rightful owner of any real estate, shall have any conveyance or other evidence of title thereto, or shall assert any claim, or pretend to have any right of title thereto, which may cast doubt or suspicion on the title of the real owner, such real owner may file a bill in the chancery court to have such conveyance or other evidence or claim of title cancelled, and such cloud, doubt or suspicion removed from said title, whether such real owner be in possession or not, and whether the defendant be a resident of this state or not; and any person having the equitable title to land may, in like cases, file a bill to divest the legal title out of the person in whom the same may be vested, and to vest the same in the equitable owner. *Any person holding or claiming under a tax title lands heretofore or hereafter sold for taxes may proceed hereunder in like manner and may include, as a defendant, any political subdivision of the state having or asserting any evidence or claim of title adverse to such tax title.*

ITEM 3: Perhaps the greatest forward step in Mississippi in pleading and procedure in our courts since the adoption of the modern Chancery Practice Act of 1924 was the adoption by the 1948 Legislature of House Bills 529 and 530.

Under these bills the system of modified common law pleading and statutory pleading in the courts at law, including the general issue plea, were abolished and a system of pleading set up based upon the filing of an answer embracing all matters in abatement and in bar, with the right of the plaintiff to reply thereto and for either party to test the legal sufficiency of defensive matters by motion. Answer is due in vacation within 30 days after services or at the return term, whichever is the earlier.

The bar of the state is greatly indebted to Hon. Noel Monaghan of Tupelo who prepared and introduced these bills and urged their passage before both houses of the Legislature.

The Committee suggests several clarifying amendments to carry out the purpose of the acts, the suggested additions to the sections affected being shown in italics, to-wit:

(1) That Section 1519 of the Mississippi Code of 1942 be and the same is hereby amended so as to read as follows:

1519. Trial—Causes, When Triable.—The defendant shall plead on or before the first day of the term to which the process is returnable or within thirty days after service of process, whichever would cause the pleading to be filed earlier, or within such other time as the court, by rule or otherwise, may allow; and for want of plea, judgment may be entered by default *in term time or vacation. Provided that if a writ of inquiry is necessary to ascertain the amount thereof, judgment final may nevertheless be entered by default in vacation subject to ascertainment of the amount thereof by writ of inquiry thereafter in term time. On motion of either party and upon notice for five days to the attorney of record for the opposing party or parties, all or any matters of pleading in which no issue of fact is raised may be determined in vacation, in the discretion of the Court.* All demurrers and dilatory pleas may be tried at the return term, *unless disposed of in vacation,* and the Court shall require that the issue of fact, if any there be, shall then be made up and joined; but such issue of fact shall not be tried before the next succeeding term without the consent of the parties, except in actions in which the defendant has been personally served with process for thirty days before the return-day, actions to enforce mechanics' liens, actions commenced by attachment and actions of replevin, in which such issues shall be tried at the return term, unless continued by consent or on cause shown. Judgment by default shall not be entered *in vacation or* at the return term, unless it appear that the process has been served personally on the defendant *or process is had by publication where provided by statute, or is legally waived.*

(2) That Section 1 of House Bill 530 of the Regular 1948 Session of the Mississippi Legislature be amended so as to read as follows:

SECTION 1. Pleas in circuit court are hereby abolished and every defense heretofore presentable by plea shall be made in an answer; and the answer may state as many defenses, whether consistent or not and whether heretofore made by plea in abatement or plea in bar, as in law or in fact, the defendant may have to the declaration or to any material part or parts thereof. *The defendant may incorporate a demurrer in his answer or may demur separately prior to the filing of his answer. But the filing of a separate demurrer shall waive any matters in abatement. Demurrer shall be heard before the principal trial of the cause but after the disposition of abatement matters.* But if matter which heretofore could constitute a plea be set up in the answer in such a manner as to be clearly distinct and readily separable and go to the entire present cause of action it may, on motion of either or any of the parties, be separately heard and disposed of before the principal trial of the cause, in the discretion of the court; and the said motion shall by itself, without further formalities or any specifications of grounds, operate (1) to set the said matter of plea for argument upon its sufficiency in law, and if held suffi-

cient in law (2) to put it in issue upon its facts, and no replication shall be necessary. *If the answer shall contain matters in abatement, the same shall be taken to be waived by the defendant unless he shall by motion set the same up to be heard separately before the hearing of the demurrer, of any, and before the trial on the merits.* And if the defendant fail to sustain the matter of the plea so heard, upon which matter, after motion made, he shall have the burden both as to the law and the facts, he shall nevertheless then have the right to go on to trial upon his answer as a whole.

(3) That Section 4 of House Bill 530 of the Regular 1948 Session of the Mississippi Legislature be amended by adding at the end thereof the following:

Motion to strike out in order to test the same for legal sufficiency may likewise be made as to such special matter alleged by the plaintiff.

(4) That Section 1480 of the Code of 1942 be repealed.

ITEM 4: There is a grave need, especially in those counties in the state recently affected by oil and gas development, for a system of auxiliary judges in Mississippi available for use by the Chancery Courts, the Circuit Courts and the Supreme Court to relieve congestion on the dockets and also to serve in lieu of special judges when the regular judge may be unable to act.

House Bill 230 was introduced by Mrs. Zelma Price and passed the House of Representatives but died in the Senate Judiciary Committee. Upon adjournment of the Legislature this bill was called to the attention of the Committee and we recommend it to the Mississippi State Bar and suggest that it be considered as one of the prime legislative objectives of the bar. Opponents of this bill were successful against it because they charged it provided a camouflaged pension. That charge is unjust. Nothing is a pension that requires work in order to earn it, and which requires those whom it affects to withdraw from the gainful practice of a highly specialized profession, such as the law. This act was designed to alleviate congested court dockets and provide an auxiliary judiciary, from whose members judges could be assigned to courts, and be required to serve. This is a far better procedure, in our judgment, than being compelled to call practitioners from their private business as special judges, most of whom are without judicial experience and training. Section 3 of the act specifically removes it from the category of a pension, where it provides that for mental or physical incapacity a judge may be removed from the list by the Governor; and that no judge may serve in the auxiliary judiciary for a period of longer than twelve years; and that no judge on the list shall practice law or be otherwise so engaged as to prevent his prompt response to assignment of service. This act is as follows:

SECTION 1. That when a judge of the circuit, or chancery, or supreme court has actively served as such in the aggregate of fifteen (15) years and has arrived at the age of sixty-five (65) years, he may (1) at that time, (2) at any time thereafter during his term, or (3) at the expiration of his term, elect

to be transferred from full service to part time service and be placed on a list to be known as the List of Auxiliary Judges and when so entitled and he so elects he may notify the Governor thereof by a signed written certificate witnessed or acknowledged, whereupon he shall be placed upon the list aforesaid, and he shall thereupon be obligated on the call of the Governor to attend and preside in any of the circuit or chancery courts for a term or for a part of a term, or in vacation, in the place and stead of any circuit or chancery judge who may be incapacitated or disqualified, or who, because of the congested condition of his trial docket and his inability to attend to its business with reasonable dispatch, has in his discretion extended the regular term or called a special term and certified such fact to the Governor, in which latter event the Auxiliary Judge so designated may hold and conduct such extended or special term even though the regular judge thereof may be holding court elsewhere in his district. And when the Supreme Court has become or is about to become in arrears with its docket, that Court may if necessary call in one, or two, if available, of the judges on said list to serve as commissioner or commissioners of the Court until such time as the arrearage shall be cleared.

SECTION 2. When a judge has been placed on the said list he shall be paid as compensation each year, in monthly installments, one-half of the amount of the salary he was receiving next preceding the time of his entry upon said List, and, in addition he shall be reimbursed for any reasonable traveling and maintenance expense while in attendance upon courts away from home, in so far as expenses for any one year shall exceed the sum of one hundred dollars ($100.00).

SECTION 3. No judge on said list shall engage in the practice of law, or be otherwise so engaged as to prevent his prompt response to calls for attendance as special judge as contemplated by this act. When any such judge shall become mentally or physically incapacitated to such extent that he can no longer render to a reasonable measure the required services, he shall, after due notice and hearing be removed by the Governor from said list, or the judge may voluntarily retire therefrom on his written request; and in any event no judge shall remain on said list for a period longer than twelve (12) years; provided, however, that if such judge entitled to do so should so retire during his regular term, the unexpired period thereof shall be added to his term under this act.

SECTION 4. In computing the aggregate of fifteen (15) years active service hereinabove mentioned the years served in any one of the courts mentioned shall be added to the years served in any other of said courts, and it shall not be necessary that said services shall have been rendered without interruption. When a judge shall have actively served as many as fifteen (15) years computed as aforesaid, but is not in active judicial service when he reaches the age of sixty-five (65) years, he may within one year after reaching said age elect to be placed on said pre-

ferred list of special judges, and thereupon he shall come within all the provisions of this act with the same effect as if he had been in actual service at the time of his arrival at the said age of sixty-five (65).

ITEM 5: In accordance with suggestion of Judge Lester Clark the Committee approved and obtained introduction of an act eliminating the extra delay of thirty days in the chancery court which has remained since the days such delay was required for the taking of depositions. Now that depositions have long since been abandoned as the required method of taking proof in the chancery court, this extra period unduly slows the process of the court. This act passed the Senate as Senate Bill 489, but died in the House Committee. It is as follows:

SECTION 1. That section 1310, Mississippi code of 1942, be and the same is hereby amended to read as follows:

1310. CAUSES TRIABLE—WHEN. When the summons has been made returnable to a regular term of Chancery Court and has been personally served for a period of thirty (30) days before the return day, or, when service of the summons returnable to a regular term of Chancery Court is by publication and the date of the first publication is thirty (30) days prior to the return day and the publication has been completed in due course as required by law, the cause shall be triable at the return term; but in the following cases, if the summons has been made returnable to the regular term of court and has been personally served, or publication has been completed, for a period of five (5) days, the cause shall be triable at the return term: (a) bills and petitions taken pro confesso; (b) proceedings in partition where title is not controverted; (c) exparte petitions; (d) proceedings to foreclose liens; (e) uncontested divorce cases; (f) in matters testamentary and of administration; (g) in minors' business; (h) in matters of persons of unsound mind; (i) and in similar cases. When the summons has been made returnable to a rule day, the cause shall be triable on any day of a term, regular or special, after the due date of the answer or answers. When a cause becomes triable the clerk will thereupon, without request, set the same down on the proper docket for hearing.

Provided, that in all matters wherein the chancellor has jurisdiction to act in vacation and a return date for process has been fixed as provided by sections 1231 and 1232, Mississippi Code of 1942, a cause shall be deemed triable, on its merits, on motion of any party, at any time after the due date of the answer or answers, either (1) in term time, or (2) in vacation upon a date to be fixed therefor by the chancellor by an order entered on the vacation minutes.

Nothing herein shall be construed in any wise to limit or alter the jurisdiction or power of the chancellor to hear and determine in vacation such matters as he is authorized to hear and determine in vacation at the time of the approval of this act, and this entire section shall be subject, as heretofore, to

the authority of the court to grant extensions or continuances for good cause shown.

SECTION 2. All laws or parts of laws in conflict with the provisions of this act are hereby repealed to the extent of such conflict only.

ITEM 6: It was suggested by O. B. Triplett, Jr., of Forest that under the case of *Corley v. Myers,* 22 So. (2d) 234, suggestion of error overruled 22 So. (2d) 575, there remains doubt as to whether or not when land is sold at private sales under order of the Chancery Court in matters of administration and all the terms of the sale are made certain by the decree authorizing the same, it will then be necessary to have a confirmation of the sale made in compliance therewith and that it would be desirable that the general statute on sale of property be amended to authorize the sale and lease of oil, gas and other minerals.

The Committee, therefore, prepared and submitted to the Legislature an amendment to Section 1389 of the Code of 1942 (the additions being in italics), which passed the House and died in the Senate, as follows, to-wit:

SECTION 1389. PRIVATE SALES AUTHORIZED.—In addition to the law now in force authorizing the chancery court to decree the sale of land and personal property, the chancery court and the chancellor, in vacation, is authorized in all matters providing for a sale or lease of real and personal property, including matters testamentary and of administration, minor's business, lunacy, partition and receivers, to order or decree the sale *or lease* of real and personal property *or any interest therein, including timber, oil, gas and minerals,* at private sale, under such terms and conditions as the chancellor may impose; *and if all of the terms of sale are made certain by the order or decree, a deed executed in full compliance therewith shall become immdiately effective without further confirmation by the court or chancellor.*

ITEM 7: At the suggestion of O. B. Triplett Jr., the Committee obtained introduction of an act amending Section 430 of the Code of 1942 so that a guardian of the estate of a person of unsound mind might be appointed by the court without the intervention of a jury in uncontested cases, retaining the present writ de inquirendo lunicato in all contested matters. It is believed this would simplify proceedings to protect the property of a person of unsound mind when there is no contest.

However, the Legislature passed House Bill 5, providing a very complicated and cumbersome method of adjudication of a person to be of unsound mind. The chief purpose of this act was to take care of the matter of committal to a mental institution, but is so worded as to require a long and cumbersome procedure to permit an adjudication and under its provisions it appears that there is no method applicable to all cases by which to protect the estate of a person of unsound mind who is not in condition to be committed to a mental institution. The Committee strongly recommends to the Study Committee for the next year the preparation of amendments clarifying the provisions of this act generally.

We also recommend that it be amended as follows to provide a means for the Chancery Court to protect the person and estate of a person of unsound mind who is not in condition to require committal to a mental institution, to-wit:

Amend House Bill 5 of the Regular 1948 Session of the Mississippi Legislature by adding a section after Section 12 thereof to be numbered Section 13, and renumbering the sections following accordingly, to-wit:

> SECTION 13.—The chancery court may appoint guardians of persons adjudged, upon inquisition as set forth above, to be of unsound mind, upon its own motion or on the application of a relative or friend, or of a member of the board of supervisors.

In addition to the rights and powers set forth in the other sections of this act and independent thereof and cumulative thereto, if a person has not been adjudged to be insane, lunatic, idiotic, or feebleminded or to be suffering from any mental or nervous condition, affliction or disorder and hence of unsound mind, as hereinabove provided, but any relative, friend or member of the board of supervisors shall deem it necessary that a guardian be appointed to care for the person or property of any person deemed to be of unsound mind, affidavit of such fact may be filed with the clerk of the chancery court of the county of such person's residence and upon the filing thereof such clerk shall issue a summons for the alleged incompetent returnable in not less than five days in term time or vacation to be executed and returned as required by law, and if no contest is filed and upon the evidence introduced at the hearing the person be adjudged of unsound mind, and incapable of taking care of himself or property, the court, chancellor or clerk may appoint a guardian to take care of his person and estate or either without submission of the matter to two physicians or the intervention of a jury. The costs of the proceeding shall be paid out of the estate.

If a contest be filed by the respondent, then proceedings shall be had in accordance with sections 2 to 12, inclusive of this Act.

ITEM 8: Upon suggestion of Judge Lester Clark the Committee approved and obtained introduction of an act to change limitation for appeal to the Supreme Court from six months to sixty days. This was introduced as Senate Bill 765, passed the Senate, was reported favorably by the House Committee but died on the House Calendar. This amendment is as follows:

> That Section 753, Mississippi Code of 1942, be and the same is hereby amended as follows:
>
> SECTION 753. APPEALS TO THE SUPREME COURT. Appeals to the Supreme Court shall be taken within sixty (60) days next after the rendition of the judgment or decree complained of, and not after, saving to persons under a disability of infancy of unsoundness of mind the like period after the disability shall have been removed.

ITEM 9: R. W. Heidelberg, Jr., of Hattiesburg suggested the consideration of a statute requiring the recordation of conditional sales contracts. The Committee feels that such statute would be desirable as to

such contracts affecting personal property other than motor vehicles, but that such vehicles should be excepted from the requirement.

It appears that, with the exception stated, conditional sales contracts and chattel mortgages and chattel deeds of trust should be on the same basis.

The committee, therefore, recommends the following amendment to Section 868 of the Code of 1942, to-wit:

> SECTION 868. Conveyances, mortgages—void if not lodged for record.—All bargains and sales, and all other conveyances whatsoever of lands, whether made for passing an estate of freehold or inheritance, or for a term of years; and all instruments of settlement upon marriage wherein land, money, or other personalty should be settled or covenanted to be left or paid at the death of the party, or otherwise; and all deeds of trust and mortgages whatsoever; *and all contracts for the sale of personal property other than motor vehicles whereby title to said property is retained in the seller* shall be void as to all creditors and subsequent purchasers for a valuable consideration without notice, unless they be acknowledged or proved and lodged with the clerk of the chancery court of the proper county, to be recorded in the same manner that other conveyances are required to be acknowledged or proved and recorded; and a failure to file such instruments with the clerk for record shall prevent any claim of priority by the holder of such instrument over any similar recorded instrument affecting the same property, to the end that with reference to all instruments which may be filed for record under this section, the priority thereof shall be governed by the priority in time of the filing of the several instruments, in the absence of actual notice; but the same as between the parties and their heirs, and as to all subsequent purchasers with notice or without valuable consideration, shall nevertheless be valid and binding.

ITEM 10: Frank E. Everett, Jr., of Vicksburg, suggested that apparently the simultaneous death of husband and wife in the same accident raises questions of law not clearly covered by the existing statutes in Mississippi. This is especially apparent when each has executed a will with the other as primary beneficiary but with different secondary beneficiaries. A uniform simultaneous accidental death statute has been adopted in 34 states, and the decisions indicate that it has proved to be entirely satisfactory.

The Committee recommends this act for Mississippi, the same being as follows:

> SECTION 1. That where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this act.
>
> SECTION 2. That where two or more beneficiaries are designated to take successively by reason of survivorship under another

person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

SECTION 3. That where there is no sufficient evidence that two joint tenants have died otherwise than simultaneously the property so held shall be distributed one half as if one had survived and one half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

SECTION 4. That where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

SECTION 5. That this act shall not apply to the distribution of the property of a person who had died before it takes effect.

SECTION 6. That this act shall not apply in the case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this act.

SECTION 7. That this act shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.

SECTION 8. That this act may be cited as the Uniform Simultaneous Death Act.

SECTION 9. That if for any reason, any section, paragraph, provision, clause or part of this act shall be held unconstitutional, or invalid, that fact shall not affect or destroy any other section, paragraph, provision, clause or part of this act not in and of itself invalid, but the remaining portion thereof shall be in force without regard to that so invalidated.

ITEM 11: At the suggestion of Wayne Thompson of Shelby the Committee considered a modernization of the exemption statutes of Mississippi and recommend the following additions to or changes in the present exemption statutes, to-wit:

(a) That a tractor and equipment therefor be exempt to the head of a family.

(b) That a truck or an automobile utilized for agricultural operations or family purposes be exempt to the head of a family.

(c) That household and kitchen furniture to a value of $1000.00 be exempt to the head of a family.

(d) That wages of the head of a family be exempt to the extent of $150.00 per month and that a single man have an exemption of wages to the extent of $100.00 per month.

(e) That libraries and equipment of lawyers and libraries, instruments and equipment of physicians be exempt to the value of $3,000.00.

(f) That the value of the homestead exempt from execution and attachment be exempt to a net value of $5,000.00.

ITEM 12: John M. Gardner of Gulfport called attention to the failure of our statutes to provide a limitation protecting title to real or personal property where the due date of an indebtedness secured by a lien upon property is not stated in the mortgage or deed of trust. It seems to the Committee to be fair and reasonable to provide that such indebtedness, as to bona fide purchasers for value without notice, should be deemed to be due one year after the date of the instrument and, therefore, the Committee recommends the following amendment of the present statute, to-wit:

SECTION 875. WHEN A LIEN APPEARS BY THE RECORD TO BE BARRED, IT CEASES.—Where the remedy to enforce any mortgage, deed of trust, or other lien on real or personal property which is recorded, appears on the face of the record to be barred by the statute of limitations, the lien shall cease and have no effect as to creditors and subsequent purchasers for a valuable consideration without notice, unless within six months after such remedy is so barred the fact that such mortgage, deed of trust, or lien has been renewed or extended be entered on the margin of the record thereof, by the creditor, debtor, or trustee, attested by the clerk, or new mortgage, deed of trust, or lien, noting the fact of renewal or extension, be duly filed for record within such time. *If the date of maturity of such indebtedness so secured does not appear of record, the same shall be deemed to be due one year from the date of the instrument securing the same for the purpose of this section.* And where a suit shall have been brought to keep a judgment alive within seven years from the rendition of such judgment, the general lien of such judgment shall expire as to creditors and subsequent purchasers for a valuable consideration, without notice, at the end of seven years from the rendition of such judgment, notwithstanding such suit to keep alive the judgment, unless a notation to keep alive such judgment shall be made on the judgment-roll within six months after the expiration of seven years from the time of the rendition of such judgment.

In addition to the above matters recommended by the Committee, a number of suggestions were made which this Committee wishes to recommend for further study by the Study Committee of the succeeding year. All are of importance to the bar of the state, but time would not permit their full consideration by this Committee. These are as follows, to-wit:

(a) Additional clarification of House Bill 5 of the Regular 1948 Session of the Legislature as to committal of persons of unsound mind to a mental institution fully discussed above.

(b) A complete revision of the statutes of the state concerning receiverships.

(c) A supplemental act applicable in the alternative to all cases providing for judicial review of decisions of administrative bodies such as the State Tax Commission, Public Service Commission, boards of supervisors, municipal authorities, etc. This was suggested by Garner W. Green and is considered very desirable by the Committee.

(d) Upon the suggestion of Prof. John W. Wade, the Committee recommends the consideration of legislation dealing with the following matters: (1) All phases of descent and distribution of property upon the murder of another person by one who would otherwise be an heir or devisee of the decedent. A study of this problem by Prof. Wade will be found in an article in 49 Harvard Law Review 715. (2) The matter of restitution in connection with illegal contracts, as to which a study and proposed uniform statute may be found in an article appearing in 95 University of Pennsylvania Law Review 261. (3) A study with the purpose of systematizing and organizing the divorce and annulment laws of the State of Mississippi appears desirable, and in that connection there will be found comment and a recommended statute in 12 Mississippi Law Journal 464, prepared by Dan Shell. The Committee has not had an opportunity to fully study these suggestions, but submits the same to the succeeding committee for further study.

The Committee expresses its appreciation to Mrs. Lura Ethridge, Secretary of the Mississippi State Bar, who rendered very efficient and valuable service to the Committee in its work.

The Committee was called upon to give a reason for its recommendation as to excepting retention of title contracts covering motor vehicles from its recommendation to amend Section 868 of the Code requiring recordation of title retention conditional sales contracts on personal property.

Whereupon, Chairman Smith requested Secretary John C. Satterfield of the Study Committee to explain this exception, and Mr. Satterfield was recognized and made explanation.

Honorable R. C. Stovall of Columbus spoke in opposition to the said recommendation of the said Study Committee.

Upon motion of Chairman Smith, duly seconded and unanimously carried, the foregoing report was adopted, except item 9 as to the recordation of conditional sales contracts, which item was re-referred for further study and later report by the Study Committee to be selected by the new Commissioners.

Whereupon, *Honorable Charles S. Tindall, Jr.,* Chairman, presented, spoke in favor of, and moved the adoption of the following:

REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR.

At its 1947 Convention, the Mississippi State Bar adopted the report of a joint committee of the State Bar and of the Junior Bar Section dealing with legal education and admissions to the Bar. The report so adopted in 1947 included recommendations for changes in the composition of the Board of Bar Admissions and for the raising of educational standards for admission to the Bar. In adopting the report the State Bar last year directed that a committee be appointed by the President of the Mississippi State Bar to draft and present to the 1948 Legislature appropriate legislation embodying the recommendations set out in the report of the joint committee.

Pursuant to that directive, our President, the Honorable Stokes V. Robertson, appointed such a committee and that committee herewith respectfully submits its report:

The first action of the committee was to draft a bill incorporating the recommendations adopted by the Bar last year. There is attached to this report a copy of the Act as drawn, which will be referred to later in this report.

In brief, the proposed act, in accordance with the action taken by the State Bar in June, 1947, called for the reconstitution of the Board of Bar Admissions to provide that the Board should consist of a member of the Supreme Court, three practicing attorneys and a member of the faculty of the University of Mississippi Law School. The proposed act further provided that the Secretary of the Mississippi State Bar should serve as the Secretary of the Board of Bar Admissions, and it specified that the Board should have the power to make all rules and regulations necessary and proper for the effective carrying out of the provisions of the act. With respect to educational qualifications, the bill called for (1) two years of college education in a school recognized and approved by the Junior College Accrediting Commission of Mississippi or by some other recognized accrediting agency approved by the Board of Bar Admissions, and (2) three years, or its equivalent, of legal study in a law school which, in the judgment of the Board of Bar Admissions, meets the standards set out in the recommendations of the State Bar adopted last year.

The foregoing provisions were the outstanding features of the recommendations to the Legislature adopted at the 1947 Convention of the State Bar. It will be remembered by those who were present at the 1947 Convention and by those who have read the report in the minutes of last year's proceedings that the educational requirements recommended by the Bar last year were somewhat lower than those suggested by the American Bar Association and no higher than the minimum requirements in over forty of our sister states. It will further be recalled that the State of Mississippi is one of the three or four lowest ranking states in the Union with respect to educational requirements prerequisite to the practice of law.

When the bill was introduced in the House, it was found that there would be considerable opposition to it in the form recommended by last year's Bar Convention. As a result, there was prepared and approved in the House Judiciary Committee a substitute bill.

The committee substitute deleted the requirement that the applicant for admission give evidence that he had successfully completed two years of preparatory college work and instead provided that he should be a high school graduate. There was one other change of considerable importance and that was that the applicant show that he had successfully completed three years of law school work or three years legal study in the office of a practicing attorney or three years of legal study combining law school work with work in the office of an attorney.

The bill was well handled by Honorable Walter Bridgforth, Representative from Yazoo County, but in spite of fine work on his part and that of sponsors of the bill, considerable opposition arose against it and when it was brought before the House for consideration it failed to pass, the vote being 69 against and 40 for the bill.

Your committee attempted to make an analysis of the reasons for the failure of the bill to pass and came to the conclusion that there were several outstanding factors. The first of these was that this was the first effort since 1916 to change the requirements for admission to the Bar. In the second place, it was impossible, prior to the opening of the session of the Legislature, to acquaint the individual members of the Legislature with the recommendations of the Bar and a great many of the members of the Legislature never thoroughly understood the reasons for some of the recommendations by the State Bar. For example, some of the members of the Legislature looked with suspicion upon the recommendation that one of the five members of the Board of Bar Admissions be the Dean or a member of the faculty of the University of Mississippi Law School. In the third place, there was considerable opposition to the procedure bill, and the forces opposing that bill and the bill to raise the standards for admission to the Bar combined to defeat both.

In spite of the results in the House which, of course, prevented the enactment of a bill of this type at the 1948 session of the Legislature, your committee learned that the sentiment of a good many of the members of the Legislature who voted against the bill was that some bill raising the standards of admission to the Bar should be enacted. The main difficulty was the lack of agreement as to what the changes should be.

While your committee regrets its failure to secure enactment of legislation embodying the recommendations of the 1947 Bar Convention, it definitely feels that progress has been made in getting the need before the Legislature and the public, and that if the members of the Legislature and the public are made thoroughly acquainted with the recommendations of the Bar, an act embodying many of the provisions of the one introduced at the 1948 session will eventually pass. There will always be some opposition, it is recognized, to any change. Yet it was apparent that many members of the 1948 Legislature had never before given serious consideration to this subject and their thinking, of course, was limited largely to information gotten during the session, which, as we all know,

was frequently crowded and rushed for time. Last year was the first occasion for the Bar itself to adopt such recommendations and all things considered the results have been encouraging.

In drawing and presenting the proposed act to the 1948 Legislature, your committee felt that it was incumbent upon it to present to the Legislature the full recommendations made by the Mississippi State Bar at its 1947 Convention; and your committee fully subscribed to those recommendations. Moreover, in preparing the bill for presentation to the Legislature, your committee was obliged to make a further study of the standards of admission to the Bar in Mississippi and in sister states. As a result, it was found that not only is Mississippi one of the three or four states in the Union with lowest qualifications for admission to the practice of law, but also it was discovered that all educational advantages in Mississippi have advanced in great strides in the last 30 years while the educational requirements for lawyers have remained in the same low level. Our present requirements for admission to the Bar were adopted in 1916. Yet the number of high school graduates in our State in 1947 was more than three times the number in the year 1923. In 1916 there were no junior colleges in Mississippi. Now there are twelve. The number of students in 1947 in junior colleges and colleges in this state was more than 15,000. These facts are a further indication that the opportunity for obtaining two years of college education preliminary to the study of law and of obtaining legal instruction prior to the practice of law is accessible to every man and woman who desires it.

At this point, the committee desires to call your attention to a brief summary of the educational qualifications for admission to the Bar in Mississippi as compared with the educational requirements for other professions in our State and as compared with requirements prerequisite to the practice of law in other states. This summary, which was presented to the Legislature, has just been distributed to you in mimeographed form. If you will examine it, you will find that Mississippi is one of the three or four states having the lowest educational requirements prerequisite to admission to the practice of law, and you will further find that there are higher educational requirements for other professions, none of which is affected with any greater public interest than the legal profession.

It was the sentiment of the members of your committee that the recommendations made to and adopted by the 1947 State Bar Convention can eventually be effected without working undue hardship on any future applicant for admission to the practice of law in this state. We felt, as did the committee which reported to you a year ago, that there will be very few persons who in this day cannot secure for themselves the preparatory and legal education which the State Bar last year recommended. Moreover, the practice of law is becoming increasingly complicated and the public interest requires that the applicant for admission to the Bar bring to it at least average abilities and at least average education. Your committee is convinced that our present requirements for admission to the Bar insure neither.

Your committee therefore recommends to the Mississippi State Bar that it again go on record as favoring a change in the composition of

the Board of Bar Admissions and a raising of the educational requirements for admission to the Bar. Your committee further recommends that the new President of the Mississippi State Bar appoint a committee to continue this study and to acquaint the public and the members of the Legislature with the need for higher standards of admission to the Bar, in order that at the next session of the Legislature a bill similar to the proposed act, or so much thereof as the committee deems feasible, may be submitted for passage.

Due to the length of the recommendations, they will not be repeated at this time, but in summary we point out that the chief provisions call for: First, a change in the composition of the Board of Bar Admissions by providing for five members, three to be practicing attorneys selected and appointed by the Supreme Court for terms of three years, one from each of the Supreme Court districts, the fourth member to be from the Supreme Court of Mississippi, and the fifth the dean or a member of the faculty of the University of Mississippi Law School. Second, that the Secretary of the Mississippi State Bar shall also serve as Secretary of the Board of Bar Admissions. Third, that the applicant for admission to the Bar shall, in addition to the present requirements, have completed two years of college education and three years or its equivalent of study in a law school which meets the standards recommended by the 1947 State Bar Convention.

In conclusion, your committee believes that these recommendations, once accomplished, will have the effect of increasing the dignity of the profession in the eyes of the public and of insuring the public of our desire to afford them the best in professional service. As great as that result, in our opinion, will be the satisfaction of the individual who is required to meet these standards before engaging in the practice of law. He will be bound to feel that he is bringing of his best and not of his least to his profession. Your committee believes that the adoption of these recommendations will be another step toward that goal.

The following was attached to said report:

AN ACT AMENDING SECTION 8647 OF THE MISSISSIPPI CODE OF 1942, TO RECONSTITUTE THE BOARD OF BAR ADMISSIONS; AMENDING SECTION 8648 OF SAID CODE TO REQUIRE THE SECRETARY OF THE STATE BAR TO ACT AS SECRETARY FOR SAID BOARD; AMENDING SECTION 8650 OF SAID CODE AS TO POWERS OF SAID BOARD; AMENDING SECTION 8654 FIXING QUALIFICATIONS AND RAISING EDUCATIONAL REQUIREMENTS OF APPLICANTS FOR ADMISSION TO THE BAR AND ESTABLISHING STANDARDS FOR LAW SCHOOLS; AMENDING SECTION 8662 OF SAID CODE AS TO APPLICANTS' LICENSE FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. That Section 8647 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: BOARD OF BAR ADMISSIONS.—There is hereby created a board to be known as the Board of Bar Admissions to consist of the following members:

(a) The Chief Justice of the Supreme Court of Mississippi, or in the event of his inability to serve, one Supreme Court Justice as designated by the Chief Justice.

(b) Three practicing attorneys selected and appointed by the Supreme Court of Mississippi for a term of three years by order duly entered on the minutes, one of said attorneys to be a resident of each of the three Supreme Court districts in the State. In the event of death of any of said practicing attorneys, or of his inability to serve, a successor shall be appointed by the Supreme Court to fill out his unexpired term.

(c) The Dean of the University of Mississippi Law School, or, in the event of his inability to serve, a member of the University of Mississippi Law School faculty as designated by the Dean.

SECTION 2. That each member of the Board of Bar Admissions, excepting the Chief Justice of the Supreme Court or his designee, shall be compensated for his work as a member of said Board at the rate of $10.00 per day, plus any expenses incident to the proper performance of his duties, including travelling expenses. All such compensation and expenses shall be paid by the Mississippi State Bar.

SECTION 3. That Section 8648 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: The Secretary of the Mississippi State Bar shall serve also as Secretary of the Board of Bar Admissions, and the duties of such Secretary shall be as follows:

(a) Dissemination of information as to the prerequisites which a person must have prior to taking the bar examination.

(b) Receiving and examining applications of persons desiring to take the bar examination.

(c) Keeping on file all examination papers for at least five years after said examinations have been taken.

(d) Keeping on file all information as to applicant.

(e) Keeping a record of all meetings and proceedings, and keeping all minutes and records of the Board of Bar Associations.

(f) Receiving application fees.

(g) Receiving from and preserving all records of previous Boards of Bar Admissions, including lists of former applicants for admission.

(h) Such other duties as the Board of Bar Admissions may determine.

SECTION 4. That Section 8650 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: POWERS OF BOARD.— In addition to the authority given in this Act said board shall have the powers and discharge the duties provided for in Title 32, Chapter 2, of the Code of 1942. The said board is hereby empowered to make all rules and regulations necessary and proper for the effective carrying out of the provisions and objectives of this Act and of said Chapter.

SECTION 5. Every person desiring admission to the bar, excepting those persons exempt by Sections 8660 and 8663 of the Mississippi Code of 1942, shall be required to take and pass the bar examination in a manner satisfactory to the Board of Bar Admissions.

SECTION 6. That Section 8654 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: QUALIFICATIONS FOR ADMISSION.—The applicant for admission to the bar, in order to be eligible for the examination for admission shall be a citizen of the United States and a resident of this state, above the age of twenty-one years, of good moral character; and shall present to the Board of Bar Admissions satisfactory evidence that he has completed successfully two years of college education in a school recognized and approved by the Junior College Accrediting Commission of Mississippi, or by the Southern Association of Colleges and Secondary Schools, or by some other recognized accrediting agency approved by the Board of Bar Admissions; and shall present to the Board of Bar Admissions satisfactory evidence that he has successfully completed a course of legal study in a law school, whether in Mississippi or not, which in the judgment of said Board of Bar Admissions meets the following standards:

(a) It shall require its students to pursue a course of three years duration if they devote substantially all of their working time to their studies, and a longer course, equivalent in the number of working hours, if they devote only a part of their working time to their studies.

(b) It shall provide an adequate library available for the use of the students.

(c) It shall have among its teachers a sufficient number giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body.

(d) It shall not be operated as a commercial enterprise, and the compensation of any officer or member of its teaching staff shall not depend on the number of students or on the fees received.

SECTION 7. That Section 8659 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: An applicant who stands and fails his first bar examination shall be required to wait a minimum period of one year before he becomes eligible to stand another examination. An applicant who stands and fails his second bar examination shall be required to wait a minimum period of one year from the date of taking said second examination before he becomes eligible to stand another examination. A person who stands and fails three bar examinations shall be required to wait a minimum period of three years from the date of standing his third examination or any examination subsequent thereto before he can become eligible to stand another bar examination.

SECTION 8. That Section 8662 of the Mississippi Code of 1942 be and the same is hereby amended to read as follows: Each person applying to take the bar examination shall be required to pay an application

fee of $10.00 to the Secretary of the Board of Bar Admissions, and all such fees shall be deposited to the credit of the Mississippi State Bar.

SECTION 9. Section 6 of this act shall not apply to any bona fide students now enrolled in a law school, provided they shall continuously pursue their course of study to a successful completion.

SECTION 10. All laws or parts of laws in conflict herewith, to the extent only that they may be in conflict, are hereby repealed, but, where the same are not in conflict, the provisions of this act shall be cumulative of such other existing law.

SECTION 11. If for any reason any section, paragraph, provision, clause or part of this act shall be held unconstitutional or invalid, that fact shall not affect or destroy any other section, paragraph, provision, clause or part of this act not in and of itself invalid, but the remaining portion hereof shall be in force without regard to that so invalidated.

SECTION 12. This act shall be known and cited as the "Bar Standards Act."

SECTION 13. This act shall take effect and be in force from and after its passage.

COMPARISON OF EDUCATIONAL REQUIREMENTS FOR ADMISSION TO THE BAR IN MISSISSIPPI WITH REQUIREMENTS IN OTHER STATES AND WITH REQUIREMENTS FOR OTHER PROFESSIONS.

POINT I

The educational requirements for admission to the Bar in Mississippi are substantially lower than those for other professions.

Profession	*General Education*	*Specialized Education*	*Minimum Amt. of Special Education Required*	*Examination by State*
Dentist	High School & College (1)	Yes	Graduate of Dental College (4 years)	Yes
Undertakers & Embalmers	None	Yes	6 months school plus 1 year's experience	Yes
Nurses	High School or equivalent	Yes	3 years' recognized school	Yes
Optometrists	High School	Yes	2 years' college	Yes
Physicians	High School & College (1)	Yes	Diploma from recognized medical college (4 yrs)	Yes

Profession	*General Education*	*Specialized Education*	*Minimum Amt. of Special Education Required*	*Examination by State*
Pediatrists	High School (1)	Yes	Graduate of recognized school of pediatry (3 yrs)	Yes
Chiropodists	High School	Yes	Graduate of recognized school of chiropody (3 yrs)	Yes
Veterinarian	None	Yes	Graduate of veterinary medical school or equivalent	Yes
Lawyers	High School or equivalent	None	None	Yes (2)

(1) Some college education required to enter specialized training course.

(2) No examination if graduate of University of Mississippi.

POINT II

The minimum standards of education required for admission to the Bar of Mississippi are substantially lower than requirements of other states.

A. LEGAL EDUCATION.

(a) There are 40 states which require 3 years of full time legal study or the equivalent of a longer period of part time study before an applicant is eligible for admission to the bar in those states.

(b) There are 5 states which require the equivalent of at least 2 years of legal study before an applicant is eligible for admission to the bar.

(c) There are only 3 states requiring no definite period of study before an applicant is eligible for admission to the bar. Mississippi is one of these 3 states.

B. PRE-LEGAL EDUCATION

(a) There are 3 states requiring a preliminary college degree or its equivalent before commencing legal education.

(b) There are 40 states requiring at least 2 years of preliminary college education or its equivalent before commencing a legal education.

(c) There are only 5 states requiring no general education or requiring a preliminary high school education or its equivalent before commencing a legal education and/or admission to the bar. Mississippi is one of the 5 states.

POINT III

The present educational requirements for admission to the bar were adopted as far back as 1916. Since then the level of education afforded our citizenry has consistently advanced. The effect of raising our standards of admission will be to allow the requirements for bar admission to keep pace with our general educational advancement within this state.

In 1922 and 1923, there were only 3,815 students enrolled in the 12th grade of high schools within this state. In 1947, this figure has advanced to 11,189. Likewise, in 1947, there were 15,323 students enrolled in tax supported junior colleges and colleges within this state as well as a substantial number in denominational institutions. At the time of the adoption of the standards for admission to the bar in 1916, there were no junior colleges in Mississippi, but since that time 12 such colleges have been opened with the 13th to be soon opened at Booneville. These schools, located throughout the state, afford an adequate opportunity for college education to all citizens of this state at a minimum cost.

The public need requires raising of the conspicuously low standard now prevailing in this state for admission to the bar. Not only will the public benefit from the raising of the standards for admission but, with higher education so readily available to all who really desire to obtain it, the individual who is required to meet these standards will be the better lawyer and the better public servant for it.

Honorable John C. Satterfield of Jackson spoke in opposition to the said report and in the progress of his remarks stated that he favored some raise in standards and suggested that the matter be referred to a new committee to be composed of proponents and opponents of the said report, which committee should be instructed to make recommendations to the next meeting of the State Bar, pointing out that that meeting would be prior to the next regular session of the Mississippi Legislature.

At the conclusion of his speech, Mr. Satterfield yielded to a question from Honorable William A. Bacon of Jackson, who asked: What raise of standards were favored by Mr. Satterfield? His response was that he, Satterfield, speaking for himself alone and not for other opponents of the report, would favor a requirement that applicants for admission to the Bar should, after high school graduation, have finished at least two years of college work, and he would favor some change in the Board of Bar Admissions and require more careful investigation as to the character of the applicant and require the payment by each applicant of an application fee of at least $25.00.

Chairman Tindall called on Honorable Erskine W. Wells of Jackson, a member of the committee, who explained statistical matter presented with the report, certain details of which had been challenged by Mr. Sat-

terfield, and who spoke in support of the committee report and the recommendations therein contained.

Mr. Satterfield was recognized and spoke on a point of personal privilege.

Whereupon, the question being called for on motion to adopt the committee report, the same was put and the said report and the recommendations therein contained were adopted.

Whereupon, on motion, the meeting was recessed until 7:30 in the evening.

EVENING SESSION, MAY 28TH, 1948

ANNUAL BANQUET

7:30 P.M.

UNIVERSITY CAFETERIA

President Robertson presented Rev. William Mercer Green, Rector of St. Peters Episcopal Church of Oxford, who pronounced the invocation.

President Robertson then introduced distinguished guests and their wives, including State Bar and Junior Bar officers, and Past Presidents of the State Bar.

Mr. Harold Avery, Director, being introduced by President Robertson, presented the following members of the Octette of Belhaven College, Jackson, Mississippi: Janie Gill, Sue Stockett, Grace Shealy, Mimi Catlin, Sara V. Everett, Mary Bailey and Margaret Williams.

Their 15 minute program was enthusiastically received.

President Robertson then introduced *Honorable E. J. Currie* of Hattiesburg, who spoke humorously and in a friendly gridiron fashion in presenting *Honorable Walter Armstrong* of Memphis, Tennessee, a native of Mississippi and formerly a student of the University of Mississippi, a past president of the American Bar Association, who spoke as follows in introducing the speaker of the evening:

Mr. President, Ladies and Gentlemen:

As I understood the introduction which was given me, the introducer said that he was somewhat handicapped because he had never seen me until about forty-five minutes ago, that he had never heard of me before that time and that he had not yet met me. I can only say that I am not as surprised at the facts he states as I am at the unexpected veracity of his introduction. In fact, it has killed most of the speech I had intended to make, which was to be an appreciation of the very flattering remarks which I expected to hear about myself. However, my speech will not be lost. The introducer did read a complimentary letter which Van Polk had written him about me. It so happens that my office and Van's are in the same building in Memphis, and tomorrow morning I shall go to Van's office and make to him the speech I expected to make to you.

Even if the introducer has never met me nor heard of me, I see before me a great many who have. Many of them are my friends, and have

been for more than four decades. I was born within thirty miles of Oxford, and spent one of the pleasantest years of my life here at the University. One of my classmates was your distinguished President, and among the friends of my boyhood were his gracious and charming wife and her equally, but not more, gracious and charming sisters. Their presence gives me great pleasure. After all, there are no friends like the friends of our early days; no greeting like their welcome, no homage like their praise.

I cannot say that I have not heard of nor met the gentleman whom I am about to introduce. He and I have been friends for many years. What I say about him will not be read from a letter which someone graciously wrote, but will come from my personal knowledge.

I think I know what qualifications a President of the American Bar Association should have, because during my term of office it was impressed upon me how many of them I lacked. Tappan Gregory has them all. He has an excellent education: he is a graduate of Yale College and Northwestern Law School. He is an active lawyer: the head of one of the largest Chicago law firms, Gregory, Gilruth & Hunter. He has a capacity for and a skill in leadership, much of which he acquired as a combat officer overseas during the first World War. He is experienced in bar association work: he has been President of the Chicago Bar Association and the Illinois State Bar Association. He was Chairman of the American Bar Association War Work Committee during the second World War—a committee which rendered incalculable service to the men in uniform. He was Chairman of the House of Delegates of the American Bar Association from 1944 to 1946. He has been a member of the Board of Editors of the American Bar Association Journal. At the invitation of the War Department he visited and observed the war trials at Nuremberg. He even inherited the right to be President of the American Bar Association, for his father, S. S. Gregory, was one of the early Presidents, and also Editor-in-Chief of the American Bar Association Journal.

Our guest even has a hobby. For many years he has been addicted to night photography of wild animals, mostly in the North Woods. The products of his art are of outstanding quality, and may be seen in his books, "The Deer at Midnight", "Mammals of the Chicago Region" and "Eyes in the Night".

I must confess, however, that our guest has missed one ripening experience. He is a bachelor; he has never domesticated the Recording Angel. Perhaps that is one reason why his capacity for leadership remains undiminished.

I may add—off the record, of course—that our guest is a Democrat—a true Democrat, not a Truman Democrat. He is known to his friends as "Tap"—a nickname that has always proved appropriate, for when this Tap is turned on, words of wisdom flow. It is a pleasure and an honor to introduce my old friend, your distinguished guest, Honorable Tappan Gregory, President of the American Bar Association.

Address of *Honorable Tappan Gregory* of Chicago, President of the American Bar:

RETROSPECTION

It is perhaps natural that to each of us may come, from time to time, a vagrant, mystic sense of assurance that the passage of time, somehow, has been arrested, that the years have touched each more gently than his fellows. I find it hard to reconcile myself to the certain fact that when I came first to the Gulf Coast of Mississippi, there had elapsed hardly more than one-half of the century of achievement that we honor today.

You must believe that the occasion was epic; for no one can know for the first time the benign influence of your graceful living, your warm cordiality, the gentle quality of nature within your boundaries, without it being so.

We doubted the wisdom of alighting at daybreak to impose the burden of the advent of strangers upon our host. We debated the alternative of continuing our journey. But the worthy Pullman attendant reported that the prospect looked "ve'y fav'ble".

The soft breezes from Back Bay, the white ribbon of shell road stretching away ahead of us, a cheerful welcome, and competent hands on the reins dispelled our doubts.

Soon Ocean Springs was behind us and we came through the woods to the shore, whence we looked out with delight at the waters of the bay sparkling in the sunlight.

I did not then know that here in 1699 the first European settlement in your State was established, soon to be moved to where Biloxi now stands.

There were turbulent days in the early years of the 19th century. Aaron Burr, under a cloud because of charges of treasonable conduct, came down the river with a handful of men and a few unimpressive boats, and at the mouth of Bayou Pierre pulled up on the Louisiana shore. Then began the jockeying that developed into the first of Mississippi's *causes celebres*. The Acting Governor called out the Militia. He feared an invasion in force and an effort by Burr to disrupt the Union and separate some of the western states from the rest. Whether there was to be a deal with Mexico, a new nation or only a foray in the nature of private buccaneering is not quite clear. Burr was waited upon and after some conversation surrendered to the civil authorities. He was haled before the Supreme Court and released on his own recognizance. The Attorney General, without much enthusiasm, called the grand jury together, ostensibly to indict Burr. Then he decided that the idea was without merit and sought the discharge of the grand jury. This was denied him, though Judge Bruin opposed the discharge of Burr unless his recognizance was satisfied. The grand jury retired but soon came in with what was in effect an apology to Burr. Thereupon he again demanded a discharge and when it was refused, took flight and forfeited his bond.

This incident is referred to merely to illustrate the temper of the times and by way of background against which I hope you will do me the honor of permitting me to record with you my respect and admiration for "Ole Miss" in whose birthday celebration I join by your sufferance and your gracious and generous gesture of friendship. For that is how I con-

strue your invitation to me to attend here today. I ask that you remember that I am fully conscious that anything I say must fall far short of what I could wish to convey. The subject and the occasion are too close to your hearts for me, a stranger, to do more than present, with the most profound respect, a brief review of those events and some of the highlights in the stories of a few of those brilliant and sturdy men, responsible in large measure in the days of travail, for the solid and enduring foundation upon which the greatness of your University rests.

I am mindful of the fact that these are matters familiar to you. But they are new to me in the main, and impressive, and therefore I would speak of them to you, the better to retain them in my mind, that I may hereafter silhouette against them the recollections I shall always cherish of this memorable day.

There was a provision in the Ordinance of 1787, the terms of which were extended three years later to the Mississippi Territory, reciting that "schools and the means of education shall forever be encouraged". As early as 1815 Congress passed an Act under which the 16th Section of every township of land should be reserved for common school education, and in addition an entire township in the territory now comprehended within the state limits of Alabama and Mississippi, for the use of a seminary of learning. In 1819, in lieu of this township, another one was conveyed to the State of Mississippi "for the support of a seminary of learning therein." This land was increased by the addition of another whole township specifically for the support of the University of Mississippi many years later.

Those lands in the township reserved in 1819 were not exactly located until 1823. And then for several years they were merely rented on short leases. Finally, after ten years of this rather profitless manner of dealing with the land, it was sold at auction for notes running one, two and three years at 10%. They aggregated about $277,000. Of this amount, about $129,000 were invested in bank stock and lost when the bank failed in 1840. Ninety thousand dollars or so were realized on the notes and used by the State for ordinary expenses. The balance was never collected.

In 1840, a committee was appointed to visit seven designated towns and make report to the next legislature as to the best site on which to erect buildings for the University. When the report came in a decision was reached to select Oxford, the vote showing a majority of one in favor of Oxford over Mississippi City. It is written, "The citizens of Lafayette County had already donated conditionally a beautiful section of land adjacent to the town for the site."

Three more years elapsed before the University was incorporated on February 24, 1844, and it was not until the next year that the Trustees held their first meeting. Still there were no funds in hand. But at length the legislature appropriated $50,000 and building operations commenced.

In 1848 the income provided by the legislature amounted to $11,000 per annum and in July the faculty was organized with George Frederick Holmes, an Englishman by birth, a professor at William and Mary Col-

lege, Virginia, as the University's first president. There were associated with him three others to constitute the faculty.

On November 6th, the first session began with a total attendance of 80. Thomas E. Bugg, of Chickasaw County, is reputed to have been the first student enrolled.

Mr. Holmes remained as president only one year. He was succeeded by the Rev. Augustus B. Longstreet. At about the same time, Jacob Thompson laid the foundation of the University's Library by a donation of books.

These were strong men, typical of their times. Longstreet was Thompson's senior by twenty years. He was born in Georgia in 1790. Making a name for himself as a member of the legislature and a judge of the Superior Court, he became a candidate for Congress with good prospects of success until he was overwhelmed with the loss of a beloved child. He withdrew from the race for Congress and refused re-election to the bench. In 1838 he entered the ministry. He was president of Emery College and of Centenary College in Louisiana before his accession to the same office at Mississippi. For about seven years he retained this presidency and then became president of South Carolina College. His tenure there was interrupted by the War. After the War he returned to Oxford to stay until his death.

This is what was said of him by Chancellor Waddel, when the first quarter century of the existence of Mississippi University was celebrated:

> As a preacher he was solemn, earnest and instructive. As a writer his style was chaste and pure. As a man, then, take him all in all, his character will bear the closest scrutiny, both in his public and in his private life. He was a kind husband and an affectionate father, a humane master, a considerate neighbor, a genial companion, an affable teacher, a wise counselor, a man of faith and trust in God . . . He left as a legacy to his descendants, a spotless reputation and the example of a transcendently noble life.

He was indeed a great and good man.

Thompson, too, was a man of character, but he followed the course that might have been Longstreet's had not tragedy intervened. Thompson came from North Carolina where he graduated from the University with first honors. His law was learned in office study and he was admitted in the same year in which he moved to Mississippi. During the banking craze, he bitterly opposed endorsement by the state of bank bonds for $5,000,000, and predicted ruin and disaster, which occurred a few years later. Soon he was elected to Congress, where he served continuously until defeated for reelection in 1851. President Pierce tendered him the consulship to Cuba, but he declined. Appointment by the Governor as U. S. Senator from Mississippi to fill a vacancy was also declined. Under President Buchanan he became Secretary of the Interior. While under trumped-up charges of complicity in a conspiracy to assassinate Lincoln, he had gone in disguise, on a mission for the Confederacy, to Portland, Maine, to seek a vessel for transport. The Secretary of War was about to issue an order for his arrest, when, only a few hours before

he was shot, Mr. Lincoln, who had been a close friend of Thompson's in Congress, suspended the issuing of the order and expressed the desire that he should be allowed to go away unmolested. I have passed over many interesting incidents of his career, troublous times and better days too. He was essentially patriotic and conscientious and his intellect and courage must have contributed in no small measure to the solution of difficult problems during the period of his service on the Board of Trustees of the University.

Fifteen members composed the first graduating class in 1851.

Three years later a law school was established with one professor, William F. Stearns, and seven members in the first class.

When the War between the States broke out, the students themselves organized the University Grays, a company of the 11th Mississippi Regiment.

As long as we have high-minded, patriotic youngsters, in our colleges and universities, eager to respond to the first call of duty, I believe the future of our country is secure.

Difficulties and vicissitudes continued for "Ole Miss". She suspended during the War, to pick up again in 1865 where she had left off and start forward once more, this time with an enrollment of 193.

In 1871, an appropriation of $50,000 per annum was inaugurated for the University. But financing is never easy. Before long the allowance was cut to $35,000 and again to $21,000. There was no choice then but to abandon the Agricultural Department.

Co-education was established in 1882 and ten years later a total of over 4,300 students had attended the University during the intervening years since it opened. Of these, over 400 were law students.

Many other great men served well the cause of education, many other distinguished names appear on the roll of Trustees during those early difficult days when the critical question of the University's survival tried the souls of her staunchest supporters.

You boasted an outstanding judge in your brilliant Chief Justice Horatio Fleming Simrall, born in Kentucky, of Scotch descent. He came down the river to your state in 1838. A legislator, keenly interested in the establishment of a system of public education, expert on equity and Constitutional Law, President of the State Senate as it was organized for the impeachment trial of Governor Ames; while he was Chief Justice many of the decisions of his court were submitted to the Supreme Court of the United States for review. None was ever reversed. He was largely responsible for the end of lottery grants and privileges. He served as trustee during many of those years of struggle.

So I close my halting effort to scan the pages of the past. How it would have inspired those stout-hearted men of early times if they had known that because of their courage and tenacity of purpose, the wherewithal to provide expansion and permanent improvements was to be measured in millions instead of thousands; if they could have envisioned

the development of new courses, departments and schools which have over the years made it possible to bring the University to its present enviable position in the instruction it is able to offer in so many important fields of knowledge; if they could have glimpsed for a moment the splendid new buildings resulting from scores of projects developed within the last fifteen years. What an achievement to build the registration in this last century from 80 students to 3,000.

The record is clear and brilliant; the future bright and secure. You and your state have brought this about by your loyal and steadfast support; you who have given us L. Q. C. Lamar, Senator of the United States, Justice of the Supreme Court, Lamar who ran the Federal blockade in a skiff; Senators Pat Harrison and John Sharp Williams, and the incomparable Private John Allen of Tupelo; you whose state is the birthplace of J. M. Dickinson, Secretary of War, President of the American Bar Association; Walter Armstrong, another American Bar Association President—a state that has just concluded a year of achievement through the advances of a new legislature, young, eager and earnest, and of a Governor appreciative of the virtue of progress.

For myself and the American Bar Association, I salute you and your great state and your fine University.

Thereupon, President Robertson announced an interlude, and invited the members and their guests to the annual State Bar dance in the Armory, at 10:30 P.M. with music by the Ole Miss orchestra known as *"The Mississippians."*

MORNING SESSION, MAY 29TH, 1948

The Convention was called to order by President Robertson at 10 A.M.

REPORT OF MEMORIAL COMMITTEE

Judge J. Morgan Stevens of Jackson, Chairman of the Committee, having obtained a leave of absence because it was impossible for him to attend the meeting, President Robertson explained that the Memorial Committee had performed its solemn duty in a most appropriate manner by holding Memorial Services in the Supreme court Room at Jackson, Mississippi, at the convening of the Court last September, as shown by the Minutes of the Court and the reported proceedings of the State Bar in the October, 1947, Law Journal.

REPORT OF DELEGATES TO THE AMERICAN BAR ASSOCIATION

Honorable Toxey Hall, one of the delegates, was present, and stated that he had been unable to attend the American Bar Convention; that Honorable Hubert Lipscomb of Jackson had attended, and had asked him, Hall, to present his report, which Mr. Hall then offered, and moved its adoption, which motion prevailed, to-wit:

During the last and current fiscal years of the Association there has been a substantial increase in the Mississippi membership of the Associa-

tion. I called for the figures but did not receive them before leaving for this meeting and, therefore, regret that I cannot at this time give you the precise number of Mississippi members who have been added to the roll since my last report.

At the annual meeting of the Association held in Cleveland, Ohio, September 22-26, 1947, there were more Mississippi members in attendance that I have seen in quite a while. On account of an engagement here in Mississippi, I was compelled to leave the meeting on the second day but before I left the following lawyers from Mississippi had registered in attendance:

Ross R. Barnett, Jackson
Bernard W. N. Chill, Jackson
P. H. Eager, Jr., Jackson
Charles F. Engle, Natchez
Robert J. Farley, University
Elizabeth W. Hulen, Jackson
Bonner R. Landman, Jackson
W. Van Guilder Ludlam, Jr., Jackson
W. E. Morse, Jackson
James Robertshaw, Greenville
Dugas Shands, Cleveland
Phil Stone, Oxford
Robert C. Stovall, Columbus
Lester E. Wills, Meridian
Gibson B. Witherspoon, Meridian
George F. Woodliff, Jackson
Hubert S. Lipscomb, Jackson

President Gregory's administration of the affairs of the Association has been an outstanding success. It would not only take too much time for me to mention the accomplishments of the Association during the current year but it is wholly unnecessary, as I am sure that all of you have followed its progress through the Journal and other publications.

At the mid-year meeting of the House of Delegates in Chicago in February of this year the State delegates nominated Honorable Frank E. Holman of Seattle, Washington, to succeed Mr. Gregory as President. The Hinds County Bar Association heard a splendid address by Mr. Holman at its annual ladies night banquet held at Jackson on May 13.

The next annual meeting of the Association will be held in Seattle, Washington, during the week beginning September 6. The Seattle Bar Association has raised a fund of $35,000 wherewith to provide free entertainment to all of those who are fortunate enough to attend and we hope that as many Mississippi members as may find it possible will attend.

My third three year term as State delegate from Mississippi expires with the adjournment of the Seattle meeting. Having been honored by the Mississippi members of the American Bar Association with this office for such a long time, and believing in the Democratic principle of rotation in office, I did not offer for reelection. There were 4 candidates for the position, to wit: Mrs. Elizabeth Hulen, W. E. Morse, and John C. Satterfield of Jackson, and Phil Stone of Oxford. Although the results of the election will not be announced for some time yet, we may be assured that

whoever is elected, from the 4 named, Mississippi will have an able representative in the House of Delegates.

REPORT OF THE BUDGET AND FINANCE COMMITTEE

In the absence of Chairman R. W. Thompson Jr., of Gulfport, the following report was presented by Honorable J. Kearney Travis of Hattiesburg, who moved its adoption which motion being seconded by Major W. Calvin Wells of Jackson, prevailed unanimously, to-wit:

We have carefully examined the Audit prepared by Dick D. Quinn & Company, certified public accountants, covering the past fiscal year closing as of May 15, 1948, and certified to by them on May 19, 1948. An examination of this Audit reflects a very healthy financial condition of the Mississippi State Bar. Said audit is herewith submitted.

The expenditures for the fiscal year 1947-48 exceeded the Budget by Eight Hundred Forty-two Dollars and Seventy-seven Cents ($842.77), but this increased expenditure was necessitated by additional expense in disbarment proceedings and increased office expense, and such expenditures were authorized and approved by the Bar Commissioners in Executive Session. The Budget for the ensuing fiscal year of 1948-49 has been increased only six hundred and twenty-five dollars ($625.00), and we consider this increase justifiable in the light of the constantly increasing costs, particularly in office supplies and in office work, but such increase is offset by the increase in revenue resulting from new membership.

An examination of the schedule of delinquent members shows a balance due slightly in excess of Fifteen Hundred Dollars ($1500.00). This contrasts, however, quite favorably with a delinquency last year at the same time of some Two Thousand Dollars ($2,000.00) and of Four Thousand Dollars ($4000.00) two years ago. Your Committee, however, respectfully but most strongly urges the incoming administration to take steps to clear up this delinquency at the very first meeting of the new Officers and Bar Commissioners, and we believe that by pursuing the matter with diligence, most of the delinquencies can be cleared up in a very short time.

On the whole, the financial affairs of the Mississippi State Bar have been administered efficiently and with due regard to the recommendations contained in the Budget for the fiscal year 1947-48.

We recommend the following Budget for the fiscal year 1948-49:

Secretary's Salary	$1800.00
Mississippi Law Journal	3250.00
Junior Bar Section	500.00
Bar Commissioners' Expense	650.00
Committee Expense (This item includes Memorial Services, Legislative Committee expense, and investigating and disbarment expense)	500.00
General Office Expense	825.00
National Conference on Uniform State Laws	150.00
Delegates to Conference of Fifth Judicial Circuit	150.00
Miscellaneous Expense	450.00
	$8275.00

AUDITOR'S REPORT

May 19, 1948

Board of Commissioners
Mississippi State Bar
Jackson, Mississippi

Gentlemen:

In accordance with your request, we have audited the accounts and financial records of the Mississippi State Bar for the period from June 1, 1947, to May 15, 1948, inclusive. We have examined the statement of receipts and disbursements of your organization for the period then ended. We have reviewed the accounting procedures employed by your Secretary-Treasurer, and without making a detailed audit of the transactions, have examined or tested the accounting records and other supporting evidence, by methods and to the extent we deemed appropriate. Our examination was made in accordance with generally accepted auditing standards applicable in the circumstances and included all procedures which we considered necessary.

The results of our audit are presented in this report, which includes: (1) text of comments and explanatory detail; (2) statement of receipts and disbursements for the period from June 1, 1947, to May 15, 1948, inclusive; and (3) schedules supplementing the foregoing statement. A list of the statement and supporting schedules will be found on the sheet following the close of these comments.

Comments Respecting Receipts and Disbursements

Exhibit A presents a statement of receipts and disbursements for the period from June 1, 1947, to May 15, 1948, inclusive.

A summary of receipts and disbursements for the current fiscal period, as disclosed by this exhibit, and a comparison with a like summary of receipts and disbursements for the preceding fiscal year, are presented in the following table:

	Period From 6-1-47 *to* 5-15-48, *Incl.*	*Fiscal Year Ended* 5-31-47	*Increase Decrease-*
Balance on Hand, Beginning of Period	$3,512.12	$1,566.99	$1,945.13
Receipts:			
Dues Collected	7,250.00	8,385.00	1,135.00—
Returned check for prior years dues collected during year	5.00		5.00
Withholding tax deducted	48.10		48.10
	7,303.10	8,385.00	1,081.90—
	10,815.22	9,951.99	863.23

DISBURSEMENTS:			
Secretary's salary	1,800.00	1,700.00	100.00
Office expenses	969.25	922.96	46.29
Annual convention—excess of disbursements over receipts	384.87	626.89—	1,011.76
Commissioners' meetings	549.45	689.25	139.80—
Junior Bar Section		253.61	253.61—
Mississippi Law Journal	3,000.00	1,739.91	1,260.09
National Conference of Commissioners on Uniform State Laws	150.00	150.00	
Committee expense	667.74	560.06	107.68
Miscellaneous disbursements		336.86	336.86—
Expenses applicable to other fiscal yrs.	471.46	714.11	242.65—
Total disbursements	7,992.77	6,439.87	1,552.90
BALANCE ON HAND, END OF PERIOD	$2,822.45	$3,512.12	$ 689.67—

Schedule A-1 presents a breakdown by years of all dues collected by your Secretary-Treasurer during the period from June 1, 1947, to May 15, 1948, inclusive.

A list of delinquent members at May 15, 1948, is presented in schedule A-2.

A review of the active membership roll of the Mississippi State Bar for the current fiscal period revealed the following information:

Active members paying dues	1,368
Delinquent members	74
Exempt members	47
New members exempt for one year	148
Members in U. S. Armed Forces	11
Total	1,648

The financial records of your organization have been maintained in an efficient manner, and we received the full cooperation of your Secretary-Treasurer.

Yours very truly,
DICK D. QUIN AND COMPANY
/s/ Dick D. Quin
Certified Public Accountant

LIST OF STATEMENTS CONTAINED IN REPORT UPON AUDIT FOR THE PERIOD FROM JUNE 1, 1947, TO MAY 15, 1948, INCLUSIVE

Exhibit A—Statement of Receipts and Disbursements for the Period From June 1, 1947, to May 15, 1948, Inclusive.

Schedule A-1—Analysis of Dues Collected for the Period from June 1, 1947, to May 15, 1948, Inclusive.

Schedule A-2—Schedule of Delinquent Members at May 15, 1948.

EXHIBIT A

STATEMENT OF RECEIPTS AND DISBURSEMENTS FOR THE PERIOD FROM JUNE 1, 1947, TO MAY 15, 1948, INCLUSIVE

BALANCE ON HAND, JUNE 1, 1947			$ 3,512.12
RECEIPTS:			
Revenue receipts:			
Dues collected—schedule A-1	$7,250.00		
Returned check for prior years dues collected during year	5.00		
		7,255.00	
Non-revenue receipts:			
Withholding tax deducted		48.10	
Total Receipts			7,303.10
			10,815.22
DISBURSEMENTS:			
Secretary's salary		1,800.00	
Office expenses:			
Auditing	200.00		
Bond premiums	12.50		
Exchange and bank charges	4.55		
Postage and box rent	274.16		
Purchase of furniture and fixtures	42.70		
Stationery, printing, office supplies	311.75		
Telephone and telegraph	123.59	969.25	
Annual Convention—excess of disbursements over receipts		384.87	
Commissioners' meetings		549.45	
Mississippi Law Journal		3,000.00	
National Conference of Commissioners on Uniform State Laws		150.00	
Committee expense:			
Legislative Committee	69.70		
Memorial Committee	50.00		
Investigating Committee	344.37		
Study Committee	203.67	667.74	
		7,521.31	
Expenses applicable to other fiscal years:			
Mississippi Law Journal—March 1947 issue—chargeable to 1946-47 appropriation	306.97		

Annual convention—expenses incident to 1948 meeting—chargeable to 1948-49 appropriation	164.49	471.46	
Total disbursements			7,992.77
BALANCE ON HAND, MAY 15, 1948			$2,822.45

NOTE: This statement is subject to comments contained in letter of transmittal.

REPORT OF RESOLUTIONS COMMITTEE

Judge Lester Clark of Hattiesburg, Chairman, in reporting for the Resolutions Committee, presented, on its behalf, the following Resolution and moved its adoption, which motion, being seconded by Major W. Calvin Wells of Jackson, and thereupon placed by Chairman Clark, prevailed unanimously, to-wit:

RESOLUTION

WHEREAS, the Mississippi State Bar Association during the year of 1947-48, under the able leadership of its President, Honorable Stokes V. Robertson, has enjoyed a most successful and progressive year, and,

WHEREAS, the members of the Association at the opening of this convention listened with interest and enlightenment to the splendid report delivered to the Association by our President, which report indicates without question that he has given unstintingly of his time to the work of the State Bar and in preparing the comprehensive report to this Association and in giving to this Association a digest of the laws passed by the 1948 session of the Mississippi Legislature, and,

WHEREAS, the members of the Mississippi State Bar in regular session assembled desire to express to the President of this Association our appreciation and approval of his administration and for the time and talent that he has given and the personal sacrifice he has made in serving this Association during the past year.

BE IT THEREFORE RESOLVED that we do now express our appreciation and approval to Honorable Stokes V. Robertson, President of the Mississippi State Bar Association for the outstanding work that he has done as President of the Bar during his administration.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of this Association and a copy furnished the press.

Chairman Clark then introduced a member of the Resolutions Committee, Miss Evelyn Gandy of Hattiesburg, who, for the Committee, offered the following resolution and moved its adoption, which motion, being duly seconded, prevailed unanimously, to-wit:

RESOLUTION

WHEREAS, the members of the Mississippi State Bar Association are greatly indebted to Chancellor J. D. Williams, Dean Robert J. Farley, the law students, the City of Oxford, the Lafayette County Bar Association, Mrs. Lura Ethridge, Secretary of the State Bar Association, Mrs. Hubert Lipscomb, President, Mrs. Albert Lake, First Vice President of the State Bar Auxiliary, Mrs. David Cottrell, Second Vice President, Mrs. Ross Barnett, Chairman of the Nomination Committee, Mrs. Robert J. Farley, Chairman of the Entertainment Committee, Mrs. Phil Stone, and the following hostesses: Mrs. W. B. Alexander, Mrs. John F. Allen, Mrs. J. H. Caldwell, Mrs. Leslie Darden, Mrs. Jerome S. Hafter, Mrs. R. Noble Lee, Mrs. R. Pearce Phillips, Mrs. Stokes V. Robertson, Mrs. John C. Satterfield, Mrs. James T. Singley, Mrs. J. D. Thames, Mrs. R. W. Thompson, Jr., Mrs. J. Kearney Travis, Mrs. Everette G. Truly, Jr., Mr. T. J. Tubb, Mrs. W. C. Sweat for the cordial welcome and hospitality extended to us during this convention, and,

WHEREAS, the entire staff at the University, the Chamber of Commerce of Oxford and the people of Oxford have been most cordial and most hospitable to us during this Convention, and,

WHEREAS, we desire to express to them our appreciation for their hospitality and courteous treatment.

BE IT THEREFORE RESOLVED that we do now express our appreciation to the above group for the great contribution that they have made to the success of this convention and for the hospitality that we have enjoyed at their hands.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of the Association and a copy furnished the press.

Thereupon, Judge Lester Clark, Chairman, reporting for the Resolutions Committee, presented and moved the adoption of the following various Resolutions, which had been considered by the Resolutions Committee, which Motion by said Chairman, being placed separately for each Resolution, prevailed unanimously, to-wit:

RESOLUTION

WHEREAS, the members of the Association have enjoyed to the utmost the fellowship of our guest of honor, Honorable Tappan Gregory, President of the American Bar Association of Chicago, Illinois, and,

WHEREAS, we feel that his visit south will be of benefit to him and that our association here will be a benefit to us, and,

WHEREAS, we feel indebted to him for the masterful address delivered to our annual Bar banquet last evening, and,

WHEREAS, we commend him as President of the American Bar Association for the fine work that he is doing for the legal profession of America and for his faith in the Constitution of the United States, and,

WHEREAS, his message was most informative and inspirational and has been a great contribution to the success of our convention.

THEREFORE BE IT RESOLVED that we, the members of the Mississippi State Bar Association in annual meeting assembled do now express to Honorable Tappan Gregory our appreciation for his presence at this convention and for the great message that he has brought.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of our Association and that a copy be furnished to Tappan Gregory, and that a copy be furnished to the American Bar Association and that a copy be furnished to the press.

RESOLUTION

WHEREAS, the press of Mississippi has been most generous in giving to this Association valuable space in the columns of their papers in advising the members of the Bar and the people of this State of this year's meeting of the State Bar Association honoring the centennial anniversary of the University of Mississippi, and,

WHEREAS, we desire to express to the press and especially to that veteran correspondent, Kenneth Toler, who knows more of the lawyers of Mississippi personally and more of the public officials of our State than any other correspondent within the State, our appreciation for his attendance at this convention, together with our appreciation for the attendance of any other correspondents in attendance at this convention.

BE IT THEREFORE RESOLVED that the members of the Mississippi State Bar Association in regular session assembled do by these resolutions express to the press and especially to Kenneth Toler and to the other correspondents present, our appreciation for their attendance and for the interest that they have shown immediately preceding and during this convention, and for the generous space given us in publicizing this meeting of our Bar Association at the University of Mississippi.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of our Association and that a copy be furnished the press.

RESOLUTION

WHEREAS, the various committees of the Mississippi Bar Association including the Legislative Committee, the Study Committee, the Committee on Legal Education and Admissions to the Bar, the Committee on Administrative Law, and the other committees of the Mississippi State Bar have been diligent during the past year in their efforts to enact into law legislation that the committee deemed beneficial to the bench and bar, and,

WHEREAS, the members of this convention desire that this important work be continued through these various committees so that the incoming administration should continue through its committees such studies that are incomplete and such new studies that they deem advisable for the bench and bar of Mississippi.

THEREFORE BE IT RESOLVED that we do recommend and urge the incoming administration to continue the above work through its various committees and report back to this Association at its next annual session.

BE IT FURTHER RESOLVED that a copy of this Resolution be spread upon the minutes of our Association and a copy furnished the incoming president.

RESOLUTION

WHEREAS, it is evident that upon reaching the campus of the University that great progress has been made in recent years, and,

WHEREAS, we the members of the State Bar Association desire, first, to congratulate the University on its centennial anniversary and, second, to express our appreciation to Chancellor J. D. Williams, Dean Robert J. Farley, the Board of Trustees, the Mississippi Legislature, and the entire faculty our profound appreciation for the great progress this institution has made during recent years, and,

WHEREAS, we are proud of the University of Mississippi and especially the Law School, and we are proud of the contribution that its graduates have made upon the public, political, social, and religious life of our State, and we commend those in charge of the Law School, especially those who continue teaching the importance of honorable living and ethical practice and to impress further upon the graduates that they owe a duty to the people of Mississippi to offer themselves as leaders and to urge them as they go out from this institution to defend and preserve the southern traditions and our southern way of living.

BE IT THEREFORE RESOLVED that this Resolution be adopted by the members of this Bar Association in regular annual session assembled as the feeling and sentiment of the Mississippi State Bar.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of our Association and a copy furnished to Chancellor J. D. Williams, a copy furnished Dean Robert J. Farley, and a copy furnished the press.

RESOLUTION

WHEREAS, the people of Mississippi are proud of the leaders we have produced since Mississippi became a State and this leadership has never advocated any kind of philosophy, political or otherwise, that would destroy the sovereignty of the State and the sacredness of individual liberty, and,

WHEREAS, there are now pending certain bills in the National Congress that are inimical to the rights of the state under the federal constitution to regulate and control its domestic affairs and especially are these bills inimical to the South and to our institutions, and,

WHEREAS, our United States Senators and Congressmen are fighting these bills with every ounce of energy at their command, and,

WHEREAS, we desire to express to our United States Senators and Congressmen appreciation for the firm stand they have taken in the defense of the states' rights to regulate their internal affairs as guaranteed to the states by the Federal Constitution.

THEREFORE BE IT RESOLVED that the members of this Association, in regular annual session assembled, do hereby commend our Senators and Congressmen and urge them to continue this fight against the federalistic legislation which, if enacted into law, would not work in the first place,

but if passed would be another step forward in centralizing all power in Washington to which we are opposed.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of our Association, a copy furnished our United States Senators and Congressmen and a copy furnished to the press.

RESOLUTION

WHEREAS, the members of this Association have had the privilege of listening with interest to the able address delivered by Honorable Major W. Calvin Wells of Jackson, Mississippi, on our fundamental privilege in states' rights and our belief in our ability to deal with and solve our own internal problems without federal regulation and intervention from Washington, and,

WHEREAS, we desire to express to Major Wells our appreciation for the time and effort he has put forth in preparing this splendid address and to voice our approval thereof, and,

WHEREAS, we believe, after the divinity of God, that nothing is so sacred as the dignity of the individual. It was nature's purpose, through God that man be free and strong in a covenant with the practice of patriot's "life, liberty, and the pursuit of happiness."

We believe that the United States of America is a government of independent individuals in a republic of sovereign states builded out of the fundamentals of freedom, good character, hard work, true thrift, and imperishable ideals.

We believe the federal government has such authority only as delivered to it by the people through their constitution, a constitution under which executive and judicial powers are clearly divided, where a constitution under which the rights of the individual and the sovereignty of the several states are inviolate.

We believe in Americanism, not Communism, Facism, Nazism—we believe in private enterprise and the profit and loss system as opposed to totalitarian idealogies.

We believe in the fullest encouragement to individual initiative and self reliance and that the State should depend upon its own existence and resources rather than upon the government.

We believe that the President of the United States as the chief executive officer of the land is bound by the preamble of the Constitution wherein it says "insure domestic tranquility" and we believe that the so-called misnamed civil rights recommendation by the President to the Congress is unwise on the President's part and is done for political reasons and that these recommendations do not insure domestic tranquility but to the contrary, divide our people section against section, race against race, neighbor against neighbor. This program is perhaps unwittingly doing the very thing that the Communists want done and that is to divide our people one against the other and they are not choicy about what method is used in dividing them but we do know that Communism cannot thrive in the midst of a happy, prosperous, and contented people. Therefore, we are opposed

to his so-called civil rights program and we are opposed to his renomination as President of the United States and we are opposed to the nomination of anyone else who makes similar recommendations to Congress or harbors similar idealogies.

THEREFORE BE IT RESOLVED that the members of the Mississippi State Bar Association, in annual meeting duly assembled, do by these resolutions indorse in principle the preservation of states rights and our objection to the so-called civil rights bills now pending in Congress and pledge ourselves to the task of restoring to our party the philosophy of the first platform of the Democratic Party adopted in 1840 as follows: "Congress has no power under the Constitution to interfere with or control the domestic institutions of the several states and that such states are the sole and proper judges of everything appertaining to their own affairs not prohibited by the Constitution." Such pronouncement is the cornerstone of the original Democratic Party and we believe that that platform and that philosophy should be maintained as the Democratic Party platform of today.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of our Association, a copy furnished Governor Fielding L. Wright of the State of Mississippi, and Sam Lumpkin, Lieutenant Governor, and a copy be furnished each of our United States Senators and Congressmen. A copy should also be furnished to the delegates to the National Democratic Convention and the press.

Upon motion of Honorable Leonard Melvin of Laurel, duly seconded and unanimously carried, the Secretary of the State Bar was directed to send to each United States Senator and Congressman a copy of the address made by Major W. Calvin Wells before this Association on yesterday, with the request that the said address be incorporated in the Congressional Record.

President Robertson asked that all past presidents of the State Bar come to the platform, and the following responded and were thereupon presented to the meeting by President Robertson:

S. E. Travis
R. E. Wilbourne
Webb W. Venable
W. Calvin Wells
Robert C. Stovall
Robert M. Kelly
Earle Wingo

Past-President Earle Wingo of Hattiesburg called attention to the fact that Past-President S. E. Travis of Hattiesburg had been a member of the State Bar Association continuously since its organization more than 44 years ago, and that he has been in attendance at 43 out of its 44 consecutive annual conventions.

In presenting Past-President W. W. Venable, President Robertson called attention to the fact that he was president of the State Bar at the time of the enactment of the integrated bar act in 1932, and was the author of that Act, and was instrumental in procuring its enactment by the Legislature.

Honorable W. A. Ellis of Carthage, for many years *Poet Laureate* of the State Bar, was called to the platform by the President and read the following Poem:

"OLE MISS" AND THE LAWYERS

What a grand, superb location,
Where the forest trees abound;
What a joy and inspiration
On this high, enchanted ground!
Beautiful beyond compare
For a college anywhere!

In these halls of classic learning,
Near this good old Oxford town,
Where the agate lamp is burning,
Where they wear the cap and gown,
Freshmen come and seniors go
Like they "used to" long ago.

Campus, full of old traditions,
Whispers secrets in our ears,
Telling tales of life's ambitions,
Wise or foolish through the years,
Secrets settled, weal or woe,
In the dust of long ago.

University or college—
Nine Divisions said to be—
Universal wisdom, knowledge,
Leading up to Nth degree,
Bachelor of Laws, they say,
Ready for the legal fray.

Many years have passed by fleetly
Since "Ole Miss" first saw the light,
Filling all her role completely
With a prospect fair and bright,
Coming down to modern days
With her wondrous works and ways.

Greatest literary treasure,
Brightest on our honor roll,
With athletics in full measure
In one grand, harmonious whole.
Strong foundation at the start
For the body, head and heart.

She can train the mind, believing
It's a source of wealth untold,
Like a master weaver weaving
Silver threads among the gold.
Shuttles running to and fro
In the loom of life, you know.

Don't forget we have reminders,
Sophomores in high debate—
On the hustings, great spellbinders,
Always glad to serve the state.
Lawyers who desire to go
To the state house, don't you know.

Like a busy bee they're working
In all seasons of the year,
Never shirking, never jerking,
Hunting honey far and near.
Lawyers come and lawyers go
Like they "used to" long ago.

On beginnings, he's loquacious,
Telling things the Court should know,
Quoting Blackstone (My good gracious!)
As the law *in statu quo.*
But when he is older grown,
Modern law will hold its own.

Lawyers, let's reflect great honor
On our Alma Mater, dear,
Put the victor's crown upon her,
As she ends her hundredth year.
Be a hero in the fight
In the holy cause of right.

Oath and duty of attorneys
You'll find written in our code—
Faithful to the Constitutions,
What to Court and client owed.
Always leave an open door
For oppressed and worthy poor.

Lawyers should be our great leaders,
Guardian angels of our laws,
Friendly, peaceful, not strife breeders,
In each noble, worthy cause.
True and faithful to the trust
Till our mouths are in the dust!

Many scholars from these portals
Have gone forth to win a name;
Now are numbered with immortals
In the Halls or Rolls of Fame.
Let us profit by their lives
While eternal hope survives.

Georgia gave to Mississippi
One great member of the bar,
Soldier, statesman, judge and teacher—
Lucius Quintus C. Lamar.
Flowers bloom above his grave
For the cause he tried to save.

Yonder in their graves are sleeping
Heroes waiting for the dawn,
While above them, angels keeping
Holy watch above His own.
Please be careful how you tread
O'er the ashes of the dead.
Scatter flowers o'er the grave
Of the ashes of the brave.

W. A. Ellis

Upon motion of Hon. W. N. Ethridge of Oxford, duly seconded by Stokes V. Robertson Jr. of Jackson, the appreciation and thanks of the State Bar were extended to Senator Ellis for his services as Poet Laureate, and lofty sentiments presented in verse by him at this meeting and at many previous conventions of the Bar.

Honorable John C. Satterfield of Jackson presented the following motion which, being seconded by Honorable Erskine W. Wells of Jackson, prevailed unanimously, to-wit:

> I move that the services of the Secretary of the Mississippi State Bar and its facilities be placed at the disposal of the State Board of Bar Examiners and that the Mississippi State Bar recommend to the Board of Commissioners that if there are funds for this purpose available, they should provide reasonable funds to such examiners to assist in investigating applicants to take the Bar Examination in Mississippi.

President Robertson announced the next order of business to be the election of officers.

Upon motion of Honorable Earl Wingo of Hattiesburg, seconded by Honorable Jack Ewing of Jackson, nominations were limited to one nominating speech and one seconding speech.

Honorable Phil Stone of Oxford was nominated for President, by Honorable W. I. Stone of Coffeeville, who explained that, while he admired Phil and wanted to see him elected President of the State Bar, he was not related to him by affinity or consanguinity. The nomination was seconded by Honorable Erskine W. Wells of Jackson.

Upon motion of J. F. Thomas of Vicksburg, seconded by Judge Lester Clark, nominations for President were closed, and upon motion of Honorable R. E. Wilbourne of Meridian, the Secretary was directed to cast one vote on behalf of all present for Honorable Phil Stone as President of the State Bar.

Honorable J. O. Hollis of Carthage was nominated for the office of First Vice President by Honorable Leonard Melvin of Laurel. The nomination was seconded by Honorable Earl Wingo of Hattiesburg.

Upon motion of Honorable Arlington Jones of Hattiesburg the nominations for First Vice President were closed, and upon motion of R. M. Kelly of Vicksburg, seconded by J. Kearney Travis, the Secretary was directed to cast one vote for all present for Honorable J. O. Hollis for First Vice President.

Honorable John E. Aldridge of Winona was nominated for Second Vice President by Honorable Al Moore of Hattiesburg, who explained that, according to custom, the Second Vice President should come from the ranks of the Junior Bar and upon its recommendation, and that his nomination of Mr. Aldridge was pursuant to the recommendation of the Junior Bar in annual session on the 27th. The nomination was seconded by Honorable Thomas Ethridge of Oxford, and upon motion of Honorable W. W. Venable of Clarksdale, duly seconded by Honorable Dan Shell of Jackson, the nominations were closed, and the Secretary was directed to cast one

vote for all present for Honorable John E. Aldridge as Second Vice President.

Honorable Stokes V. Robertson was nominated as Delegate to the American Bar Association by Judge Lester Clark of Hattiesburg, which nomination was seconded by Honorable R. M. Kelly of Vicksburg. Upon motion of W. N. Ethridge seconded by R. E. Wilbourne, nominations were closed and the Secretary was instructed to cast one vote for all present for Mr. Robertson as Delegate to the American Bar Association.

Honorable John C. Satterfield of Jackson nominated Judge Lester Clark as alternate delegate to the American Bar Association, which nomination was seconded by Honorable J. Kearney Travis. The motion of Major W. Calvin Wells of Jackson that nominations be closed and the Secretary instructed to cast one vote for all present for Judge Clark, being seconded by E. J. Currie of Hattiesburg, prevailed unanimously.

The President announced that the next order of business was selection of place of next year's meeting, and presented telegrams received by him, as follows:

> The City of Biloxi extends an invitation to the Mississippi State Bar to come to the beautiful Mississippi Gulf Coast for their 1949 Convention. We promise every cooperation in making your meeting an outstanding success and sincerely hope you will accept the invitation extended by Bidwell Adam for the Harrison County Bar Association.
>
> *G. B. Cousins,* Mayor.

> I wish to join the fair City of Biloxi in extending an invitation to the Mississippi Bar to visit Biloxi next summer. In this spot where exiled angels might forbear a while to mourn for paradise and where the soft murmur of the sea whispers in more languages than one, in this land that is fanned by the soft zephyrs of a summer's night, where the silver moon spreads its shimmering sheen, while ten thousand mermaids with outstretched arms extend one grand and glorious and hearty welcome to the lawyers of Mississippi to come and visit us. We know it will make the old feel young and the young feel younger. Let me close with my best wishes to every member of the Bar. Sincerely,
>
> *Bidwell Adam*

> The Buena Vista is happy that Bidwell Adam and the Harrison County Bar Association are inviting the Mississippi State Bar to the beautiful Gulf Coast for their 1949 Convention. We join them in extending an invitation to make your headquarters at the Buena Vista and to enjoy our beautiful new modern convention hall which will be completed in time for your next meeting. With this new room, the Buena Vista offers you the best convention facilities in the state and every cooperation in making your meeting a success. We hope you will accept the invitation of the Harrison County Bar to meet with us.
>
> *Jimmie Love,*
> General Manager
> BUENA VISTA HOTEL.

Upon motion of Honorable Robert M. Kelly of Vicksburg, seconded by Honorable Jack Ewing of Jackson, Biloxi was unanimously selected as next year's meeting place.

Whereupon, the members from the various Circuit Court Districts separately assembled and separately conducted elections of Commissioners for the next year, in accord with law and the by-laws of the State Bar; and thereafter returned to the Convention Hall and announced results of said elections, as follows, the persons so selected being declared to be the Commissioners of the State Bar for the term to begin soon, in accord with the by-laws, to-wit:

For the First Circuit Court District:
W. C. Sweat of Corinth;

For the Second Circuit Court District:
R. W. Thompson Jr. of Gulfport;

For the Third Circuit Court District:
L. A. Smith Jr. of Holly Springs;

For the Fourth Circuit Court District:
Jerome Hafter of Greenville;

For the Fifth Circuit Court District:
Charles D. Fair of Louisville;

For the Sixth Circuit Court District:
Oliver Hornsby of Natchez;

For the Seventh Circuit Court District:
John C. Satterfield of Jackson;

For the Eighth Circuit Court District:
W. A. Huff of Forest;

For the Ninth Circuit Court District:
J. D. Thames of Vicksburg;

For the Tenth Circuit Court District:
S. R. Nettles of Meridian;

For the Eleventh Circuit Court District:
E. C. Black of Forest;

For the Twelfth Circuit Court District:
J. Kearney Travis of Hattiesburg;

For the Thirteenth Circuit Court District:
W. W. Dent of Collins;

For the Fourteenth Circuit Court District:
Carroll Kemp of Hazlehurst;

For the Fifteenth Circuit Court District:
Joseph Dale of Prentiss;

For the Sixteenth Circuit Court District:
John H. Holleman of Columbus;

For the Seventeenth Circuit Court District:
J. H. Caldwell Sr. of Charleston.

The newly elected President and Vice Presidents, being presented and congratulated by President Robertson, made appropriate remarks bespeaking the cooperation of all State Bar members in making the new year the best in the history of the organization.

Whereupon the meeting was adjourned *sine die*.

*PROCEEDINGS OF THE TWELFTH ANNUAL MEETING OF THE

JUNIOR BAR SECTION

Held at the University of Mississippi on the 27th of May, 1948

The meeting was called to order by the Chairman, Mr. James S. Eaton of Gulfport. After expressing appreciation to the chairmen and the members of the various committees for the work which they had done, Mr. Eaton proceeded to call for reports from the committees.

The report of the Committee on Civil Procedure was presented by Mr. Guy W. Mitchell, Jr., of Tupelo.

REPORT OF THE COMMITTEE ON CIVIL PROCEDURE

The matter of improvement of civil procedure is not a new topic for consideration of either the Senior or Junior Bar. Since some of you here may not have attended last year's meeting at Biloxi, I would like to briefly review the more recent actions of our Association with reference to civil procedure reform.

Prior to the 1947 meeting of the Association, a committee was appointed for each section of the Association. These committees met jointly and after a great deal of work and study submitted to the last meeting of the Association a comprehensive report. The views of these committees are briefly expressed in two excerpts from the report:

> We desire to point out that, apart from the 1924 Chancery Practice Act, there has been no substantial change in the method of trying suits in the Chancery Courts of the State for many years, and the methods pursued in the Circuit Courts in the matter of pleading, practice and procedure, are even more outmoded. It is felt that there is a real need for improvement in the trial of cases in both the Chancery and Circuit Courts, as well as County Courts, from the standpoint of assuring to litigants a more expeditious, less expensive, and more equitable system of adjudicating lawsuits.
>
> In Mississippi, the overhauling and modernizing of rules of civil procedure are long overdue, and we feel that it is one of the most pressing and vital problems affecting the administration of justice in our courts.

The recommendation of the Committee was as follows:

> Our Committees have concluded that the most sensible, logical, and proper way in which to approach the means by which rules of civil procedure should be secured for the courts of this State, is to request the Legislature to enact a statute which

*No stenographic report of the proceedings of the Junior Bar Association was taken, and consequently only the written committee reports can be published.

> would vest in the Supreme Court of the State the power to make and prescribe, from time to time, general rules of pleading, practice, writs, process and procedure, in the trial of civil cases in the Chancery, Circuit, and County Courts of the State.

The Committee submitted a proposed bill to carry out its recommendations. Many of you will recall that a great deal of time at the Biloxi meeting was devoted to the consideration of the report of this committee and the proposed legislation. The convention by a majority vote adopted the report and recommended passage of the legislation.

When the Legislature convened in January 1948, the President of the Bar Association and the Chairman of our section appointed a committee to procure the introduction and presentation of the proposed legislation. The Chairman of this committee, Mr. Robert Burns of Jackson, together with the Chairman of our Junior Bar Section gave a great deal of their own time and efforts in presenting this bill to the Legislature and in appearing before the various committees studying the bill. You will recall that the action taken at the Bar Association meeting was not unanimous, and it was anticipated that some opposition to the passage of the legislation would be present in the Legislature. This opposition turned out to be very formidable and in spite of the excellent efforts made by the various members of the Committee who were working for the passage of the bill, the legislation was defeated.

Following the defeat of the bill vesting the rule-making powers in the members of the Supreme Court, two important measures effecting radical changes in our civil procedure were passed by the Legislature. Both of these measures are discussed in the report of the Study Committee of the Association. A copy of the report was furnished to each member of the Bar with the program of this year's convention, and I am sure you are familiar with them.

House Bill No. 529 simply requires that the defendant shall plead within thirty days after service of process or the first day of return term depending on which date would cause the plea to be filed earlier. This act merely requires that an answer be filed earlier than would often have been the case under the old law. House Bill Number 530 abolishes pleas in Circuit Courts and provides that all defenses shall be presented in an answer. Sufficiency of the answer is tested by motion to strike. These measures are considered as the first step in accomplishing some procedural reform. The Study Committee has made a number of recommendations on procedural matters and we will hear more concerning these recommendations when the Committee makes its report to the Senior Bar. Two of the recommendations have to do with amending the two new procedural acts and I would like to briefly discuss these two suggested additions to the new law. If you have your Committee report of the Study Committee with you and will turn to the third page, you will notice the first recommended addition is to permit a default judgment to be entered in term time or in vacation and also permit the disposition in vacation of all matters of pleading which do not involve issues of fact, in order to dispose of all matters except the actual trial of the facts prior to the return term. This addition would give the Circuit Judge considerable vacation powers which he does not have at present and would pre-

vent taking up a large part of the Court's time during regular term hearing matters which are of a legal nature. It is patterned somewhat after the Federal Procedure.

The other addition simply provides that the defendant may incorporate his demurrer in the answer or may demur separately. By the filing of a separate demurrer, any matters in abatement are waived. The demurrer is to be heard before the trial of the cause but after the disposition of abatement matters. Matters in abatement in the answer are considered waived unless the defendants move to set them up for separate hearing before the hearing of the demurrer.

I believe that the Junior Bar should take some action in recognition of the work which the Study Committee has done in the matter of procedure reform and should also go on record with regard to the suggested future activity of the Association on civil procedure matters. Since the Legislature as now constituted will be the Legislature for the next three years, I do not believe that we could gain anything by again attempting to secure passage of the Rule-Making Power Legislation. I believe that the suggestions of the Study Committe for the amendment of the new procedural acts are good and that the Association should seek the enactment of these amendments. Of course, there will not be a regular session of the Legislature until after the next meeting of our Association and I, therefore, recommend that the Junior Bar Section now go on record as expressing its appreciation to the members of the Study Committee for the work which has been done by this Committee, and that the Junior Bar Section recommend to the Senior Bar the continuance of this committee and suggest to the incoming officers of the Association that the proposed amendment of the new procedural acts be brought before the next meeting of our Association with a view towards obtaining their enactment at the next regular session of the Legislature.

This is not the report of a committee and, therefore, I cannot move the adoption of the report. However, in order to get the questions before the section, I will make three separate motions which may be discussed and acted on separately.

First, I move that the Junior Bar recommend that no further action be taken with reference to the Rule Making Power Legislation during the term of the present Legislature. Second, I move that the Junior Bar Section endorse and approve the amendments to the procedural acts as recommended by the Study Committee. Third, I move that the Junior Bar Section express its appreciation to the members of the Study Committee for the work done by the Committee and recommend that this committee be continued as a permanent committee of the Association.

The report of the Committee on the Unauthorized Practice of Law was presented by Mr. E. B. Williams, Jr., of Poplarville.

REPORT OF THE COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

As is stated in 5 Am. Jur. 270, the practice of law is not a profession open to all who wish to engage in it, nor is it a natural, inherent or vested right, or one guaranteed by the Constitution; it is a personal

right or privilege limited to persons of good moral character, with special qualifications duly ascertained and certified.

Statutes usually forbid the practice of law by those who are unlicensed. This is the case in our State, wherein it is set out in Section 8682 of the Code of 1942, "It shall be unlawful for any person to engage in the practice of law in this State who has not been licensed according to law; any person violating this provision shall be deemed guilty of a misdemeanor, and, upon conviction, may be fined in any sum not exceeding $500.00. Any person who shall, for a fee or reward or promise, directly or indirectly, write or dictate any paper or instrument of writing to be filed in any cause or proceeding pending or to be instituted in any court in this State, or give any counsel or advice therein, or who shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract or last will and testament, or shall make or certify to any abstracts of title to real estate, other than his own, or in which he may own an interest, shall be held to be engaged in the practice of law. This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this State from making abstracts or certifying titles to real estate, where it acts through some person or agent authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi, with a paid-up capital of $50,000 or more, from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company."

In reviewing the reports of the various committees of the Bar Association on unauthorized practices of law given in the past, and as far back as 1937, it was pointed out in these reports that there was no known state-wide organization or group engaged in unauthorized practice in this State. This is apparently still true.

As was found in these reports, and it may be said that the same conditions exist today, real estate agents, justices of the peace, tax specialists, cotton associations and chancery clerks sometimes engage in the unauthorized practice of the law, namely: real estate agents by drawing deeds, contracts and deeds of trust; justices of the peace, by giving legal advice and drawing legal papers; tax specialists, bookkeepers, accountants and occasionally C. P. A.'s, by active practice before administrative bodies in the tax courts in connection with tax practice; chancery clerks, by attempting to answer questions regarding matters of a legal nature recorded in their offices; cotton associations, by drawing contracts in connection with their own activities and the activities of their members.

It was ably pointed out in one of the reports that unauthorized practice presents essentially a local problem and corrective action can be better taken by local bar associations than by the State Bar Association, except in the case of unauthorized tax practitioners.

In the past, educational programs and public relation programs to sell the public on the advantages of employing legal assistance in handling matters of a legal nature have been recommended. A survey of the State has been recommended and letters to the various offending parties have been recommended. All of the reports agree that there are few cases that would require prosecution, and it is my opinion that there exist

very few cases which would merit any action on the part of local bar associations or the State association against offending parties.

An effort will, therefore, be made to set out a few of those matters which constitute the unauthorized practice of law as well as some instances that do not constitute the unauthorized practice of law, in order that members of the Bar, especially the Junior Bar, may remain diligent in guarding against and preventing the unauthorized practice of law.

As was stated in 111 A. L. R. 19, it is practically impossible to frame any comprehensive and satisfactory definition of what constitutes the practice of law, it being necessary to decide each case largely upon its own particular facts. It is well established that practice of law, within the meaning of statutory prohibitions or regulations or license requirements, is not confined to practice in the courts. It may be added here that there are few and isolated instances in our State courts where unlicensed attorneys have managed to perform the acts of practicing law.

As was said in an Indiana case, *Eley v. Miller,* 7 Ind. App. 529, 34 N. E. 836 (1893) which has received wide approval, "As the term is generally understood, the practice of law is the doing or performing services in a court of justice, in any matters pending therein, throughout its various stages, and in conformity to the adopted rules of procedure. But in a larger sense it includes legal advice and counsel and the preparation of legal instruments and contracts by which legal rights are secured, although such matters may or may not be pending in a court."

The Massachusetts Court, *re Opinion of Justices,* 289 Mass. 607, 194 N. E. 313 (1935), has observed that no valid distinction can be drawn between that part of the work of a lawyer which involves appearance in court and that part which involves advice and drafting of instruments in his office, the work of the office lawyer being the ground work of future possible contests in court. And in this Country the practice of law includes both forms of legal service, there being no separation as in England into barristers and solicitors, and it being of importance to the public welfare that these manifold and customary functions (office practice) be performed by persons possessed of adequate learning and skill, of sound moral character and acting at all times under the obligation to clients which rests upon all attorneys.

One who confers with clients, advises them as to their legal rights, and then takes the business to an attorney and arranges with him to look after the matter in court, is engaged in the practice of law. See *State, ex rel Boynton v. Perkins,* 138 Kan. 899, 28 P. 2d 765 (1934).

One of the most common ways in which persons not authorized to practice law may do so is in drawing for others papers conferring or involving legal rights. It has been held that the conducting of proceedings in the matter of estates and guardianships in the probate court constitutes the practice of law.

In determining whether the work of a law clerk not admitted to the bar amounts to the practice of law, it has been pointed out in *Ferris v. Snively,* 172 Wash. 167, 19 P. 2d 942 (1933) that while the line of demarcation between such work as the clerk may lawfully do and that

which he may not lawfully perform cannot always be drawn with absolute distinction or accuracy, probably the test, as near as it can be fixed, is that the work which the clerk may lawfully do is "of a preparatory nature, such as research, investigation of details, the assemblage of data and other necessary information, and such other work as will assist the employing attorney in carrying the matter to a completed product, either by his personal examination and approval thereof or by additional effort on his part. The work must be such, however, as loses its separate identity and becomes either the product, or else merged in the product, of the attorney himself." It was also held that "A clerk is performing services of a legal nature, within the meaning of a statute providing that no person shall be permitted to practice as an attorney or counselor at law or to do work of a legal nature for compensation unless admitted to practice law in the State, where the services rendered to his employer, an attorney at law, consist in handling uncontested probate matters, giving oral opinions on abstracts of title, and preparing wills, leases, mortgages, bills of sale, and contracts upon his own initiative, with no supervision from his employer." An attorney's stenographer would most certainly be classed as a clerk or be subject to the same restrictions with regard to the unauthorized practice of law.

In a recent New York case, *Application of New York County Lawyers Association. In re Bercu,* 78 N. Y. S. 2d 209 (1948), the Court held that it is not permissible for an accountant, if he is not an attorney, to give legal advice which is unconnected with accounting work in which he is engaged. He may not set himself up as a public consultant on the law of his specialty. An accountant, who was not an attorney, was unlawfully engaged in the practice of law when he was employed by a corporation, not to render services in the preparation of tax returns, but solely to give his opinion after a study of decisions on the question whether a payment which the corporation contemplated making could, under the income tax law, be deducted in its tax return for the year in which the payment was made, or must be allocated to earlier years.

An association is not engaged in the unlawful practice of the law because of the use incident to its general business of blank notes, drafts, blank mortgages, etc., obtainable at book stores. *Depew v. Wichita Asso. C. N.,* 142 Kan. 403, 49 P. 2d 1041 (1935). The rule prohibiting a layman from drawing legal papers does not, however, preclude his drawing papers connected with his own business transactions. *Childs v. Smeltzer,* 315 Pa. 9, 171 A. 883 (1934).

The following is probably of interest to the group. The preparation and filing of pleadings in workmen's compensation cases has been held in a Pennsylvania case, *Shorts v. Farrell,* 327 Pa. 82, 193 A. 20 (1937), not to constitute the practice of law. The Court said: "Such pleadings are so uniformly simple that it cannot fairly be said that legal skill is required in their preparation. They are executed on forms prepared by the Board, are elementary in character, and do not rise to the dignity of pleadings as that term is understood in other judicial proceedings." However, it was held in a South Carolina case, *Daniel v. Wells,* 191 S. C. 468. 5 S. E. 2d 181 (1939), that, "A lay representative of an insurance company who appears before a commissioner in hearings under the Workmen's Compensation Act, in the course of which he files pleadings, states

his case, examines and cross-examines witnesses, and presents arguments, is engaged in the practice of law, although such activities constitute only a minor portion of the duties of his employment and he receives no specific remuneration for such services."

In general, it seems that the collection of claims without resort to courts of law does not constitute the practice of law. It has been held that a layman, who is agent of a creditor, has a right to present a claim or note to the debtor for payment and to receive payment on behalf of the creditor.

One may appear and present or defend against claims in any action wherein he is plaintiff or defendant, without the assistance of a regularly licensed attorney, and if he acts only for himself in such matters, or in any legal matters, he is not practicing law within the meaning of a statute requiring admission to the bar of all persons practicing law. *State ex rel. Frohmiller v. Hendrix,* 59 Ariz. 184, 124 P. 2d 768 (1942).

It may be added that the annotations from the cases referred to in this report have been given mainly for the interest which they may create, but, of course, by no means, thoroughly cover the subject on unauthorized practice of the law. It is hoped and stated again that we should remain diligent in an effort to detect and stop those cases where there is unauthorized practice of the law in our State.

The report of the Committee on Admissions to the Bar was presented by Mr. Dan Shell of Jackson, in the absence of Mr. Dan M. Russell, Jr., of Bay St. Louis.

REPORT OF THE COMMITTEE ON ADMISSIONS TO THE BAR

I should have stood by my reply of, "No," instead of changing it to, "Yes," when our President, Jimmie Eaton, called me to make a report to you on "What changes, if any, did the Mississippi Legislature make in raising the standard of Admission to the Bar?" I should have rested on my first plea for the reason that there are so many other members of the Junior Bar who are more thoroughly familiar with the subject than I. There are some members who are presently members of the Legislature and know more in detail the attitude and action of the Legislature when this subject was presented to it this past session.

I deeply regret my inability to be present with you today, but I have been called back into Naval Intelligence for two weeks' duty. Thus, this report is not being made as a full summary of what has transpired on the subject since our last meeting, but merely a brief resume, from which some constructive suggestions are hereby solicited.

Most of you remember the heated discussion held at the Junior and Senior Bar Meeting last year, and recall the recommendation of the Junior Bar and Senior Bar in the proposal of Legislation to raise the standards for Admission to the Bar. As a result, a bill was introduced in the Legislature, in accordance with the recommendations of the Bar Association last summer. Since it was a far-reaching bill, it immediately developed strong opposition. Therefore, a committee substitute was reported

out. This substitute would have required a person to attend a law school for three years before being eligible to take the examination for admission and would have required all applicants to be high school graduates as well as changing the composition of the Board of Bar Examiners. The heart was cut out of this bill by amendments on the floor and it was then killed. There are members present here today who could elaborate more fully on the cause or causes of the failure of this bill to pass, and the possibility of framing a new bill at the next meeting of the legislature which would improve our present standards of Admission to the Bar, and which might have a chance of passing.

An earnest attempt has been made toward raising the standards, and we wish to thank those members of the Junior and Senior Bar who valiantly led the fight. It seems that our own profession is one of the last to raise its antiquated standards in the State of Mississippi, but through evolution and continuous effort on our part we should strive to educate the public whom we serve that its rights would be best promoted and protected by raising our own standards.

The convention was addressed by Mr. T. Julian Skinner of Jasper, Alabama, Chairman of the Junior Bar Conference of the American Bar Association. Mr. Skinner outlined the origin and development of the Junior Bar Conference and laid emphasis on the need for improved procedures to insure better administration of justice.

The report of the Committee on Federal and State Relations was presented by Mr. George H. Butler, Jr., of Jackson.

REPORT OF THE COMMITTEE ON FEDERAL AND STATE RELATIONS

It has been apparent through recent years that the tendency of the Federal government, including the executive, legislative, and judicial branches, has been to expand its assertion of power into fields traditionally considered to belong to the States. It is the thought of your committee that we, as lawyers, are under an obligation to appraise these acts in the light of applicable principles of constitutional law and government.

Originally, Federal intervention in fields reserved to the States was justified, or sought to be justified, on the grounds that emergencies of varying types existed. But it has become increasingly apparent that the emergencies in question have ceased to be acute and have become chronic. The truth of this statement is emphasized by the fact that although some wartime controls have been relinquished, the Federal government continues to manifest its disposition to extend its authority in the fields of State action.

It is beyond the scope of this report to discuss all of the various acts, extending as they do from executive and judicial action at the highest levels, to action on the part of minor Federal officials. It is hoped, however, that this report may serve to highlight some of the principal developments in the recent year and to indicate the trend.

An indication of the expanded assertion of Federal power is furnished by the Tidelands controversy. This question involves the ownership of land beneath navigable waters within state boundaries. For many years the several states have exercised full power of ownership with respect to such lands and natural resources with the full acquiescence and approval of the United States and in accordance with many decisions of courts and executive departments of the Federal government recognizing that such lands and resources were vested in the respective states as an incident of state sovereignty. The decision of the Supreme Court in the *Tidelands Case,* 332 U. S. 19 (1947) held that the Federal government had certain paramount powers with respect to a portion of said lands and resources without definitely settling the ultimate question of ownership. In an effort to settle the questions which arise as a result of this decision, there is now pending in Congress legislation to confirm State titles through enactment of S. 1988. It is to be hoped that this legislation will be adopted and the conflicting questions of ownership settled.

The case of *Patton v. Mississippi,* 68 S. Ct. 184 (1947) furnishes an indication of the tendency of the United States Supreme Court to encroach upon the province of the state judiciary. In this case it was in effect held that the State had failed to disprove systematic racial discrimination in the selection of jurors. Whether or not a conviction in a state court has been obtained by procedure which violates due process and equal protection is a question of fact. The great respect to be accorded to the conclusions of the state judiciary on disputed issues leads to the acceptance of the conclusion of the trier of fact unless it is so lacking in support in the evidence that to give it effect would work that fundamental unfairness which is violative of due process or equal protection. *Akins v. Texas,* 325 U. S. 398 (1944). Members of the Nation's highest court should properly be vigilant to see that the essential principles of fair play and constitutional right are maintained. But we submit that the hundreds of experienced judges of the courts of the several states have been at least equally prompt and vigilant in maintaining the guaranties of constitutional right. The disturbing feature of the decision is that the Supreme Court disregarded and set aside the findings of fact of both the trial and appellate courts of the state on a disputed issue of fact.

Perhaps the most serious attack in recent years upon the American system of constitutional government exists as a result of certain measures contained in the so-called Civil Rights Program and the Message of the President of the United States on February 2, 1948.

The Civil Rights Program originated in late 1946, when the President appointed a committee on Civil Rights. In late 1947, the report of this committee was published and on February 2, 1948, the President of the United States rubber-stamped the committee's recommendations.

Certain of the legislation recommended in this report is undoubtedly within the constitutional power of Congress. Other legislation, however, which this committee recommends and the President approves, is unquestionably beyond the scope of the power vested in the Congress of the United States and in some instances presupposes the existence in Congress of power which has been specifically denied to it.

The most objectionable legislation recommended consists of the Anti-Lynching bill, Anti-Poll Tax bill, and the Fair Employment Practices bill. It is at once apparent that legislation of this character involves the question of racial differentiation and segregation. And, of course, this fact is one with which the people of the South are naturally concerned. But regardless of personal viewpoints on racial questions, the primary and most serious objection to legislation of this type is the fact that it involves a direct attack on fundamental constitutional principles and invades the reserved powers of the States.

The Anti-Poll Tax bill is H. R. 29 and its purport is to make unlawful the requirement for the payment of a poll tax as a prerequisite to voting in a primary or other election for national officers. In the opinion of your committee, this bill is unconstitutional and is violative of Article 1, Section 2, Constitution of the United States, and the Seventeenth Amendment to the Constitution. These provisions of the Constitution provide that in elections for members of the National House of Representatives and the Senate, the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State Legislature. Under Article II, Section 1, the State Legislature provides for the selection of Presidential electors. The Supreme Court of the United States has repeatedly recognized that the privilege of voting is not derived from the United States, but is conferred by the several states, and that a state may condition suffrage as it sees fit. In *Ex Parte Yarbrough,* 110 *U. S.* 651 (1844) the court said:

> The States, in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those eo nomine.
>
> They (the States) define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for Members of Congress.

And in *Breedlove v. Suttles,* 302 *U. S.* 277 (1937) the Court said:

> To make payment of poll taxes a prerequisite of voting is not to deny any privilege or immunity protected by the fourteenth amendment. Privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the fifteenth and nineteenth amendments and other provisions of the Federal Constitution, the State may condition suffrage as it seems appropriate.

The proponents of the Anti-Poll Tax legislation seek to avoid the effect of these constitutional provisions and these decisions by an unfounded declaration to the effect that the payment of a poll tax as a prerequisite to voting shall not be deemed a qualification but shall be deemed an interference with the manner of holding elections. This is an obvious effort to avoid the applicable provisions of the United States Constitution with reference to the qualifications of electors, by making a false declaration and attempting to bring the act under Section 4, Article I of the Constitu-

tion, which grants to Congress the power to regulate the manner of holding elections for Federal officers.

Another bill which is a part of the Civil Rights Program is the FEPC Act. Stripped of its non-essentials, this legislation seeks to use the power of the Federal government to abolish the right of employers and industry to exercise freedom of choice in determining whom they will employ. This proposed act would make it unlawful for a private employer to refuse to hire or to discharge any person, or to discriminate against him in promotion or other conditions of employment because of his race, religion, color or ancestry. In the opinion of your committee, such legislation constitutes an invasion of the reserved rights of the States of the Union, and if enacted and enforced by the courts would have the effect of denying to employers their constitutional rights of individual liberty, freedom of association, freedom of speech, and would open the door to the eventual destruction of our economic system of free enterprise and private property.

Another proposal which is equally objectionable is the so-called Anti-lynching bill which is Senate Bill 42. This act proposes to make lynching a federal crime, and provides for redress by civil action against the officer and political subdivision in which the lynching occurred.

It is fundamental under the American Constitution, that the police power, being an attribute of sovereignty inherent in the original states and not delegated by the Federal Constitution of the United States, remains with the individual States. The Federal government has no general police power and this proposed Anti-lynching bill is an unwarranted attempt to assert federal police power in regard to the internal affairs of the States.

It has been stated by some that the entire Civil Rights scheme is directed at the South. But others have advanced the idea that the question is graver and more fundamental than a sectional one. The opinion has been expressed by many that the true purpose of this legislation is to break down the fundamental concepts of constitutional law under which this country is organized and to concentrate all power in the hands of the Federal government.

There may be those who suggest that opposition to the present Civil Rights program is sectional in nature and fostered by Southerners. This is not true. Many distinguished persons and fair minded observers in other sections of the country have pointed out the objections to and dangers of this program. For example, in a radio address on March 30, 1948, Raymond Moley stated:

> This problem of civil rights should not be made a political issue. Its bearing on deeply felt emotions, its Nation-wide significance, and the moral values involved should lift it above a squabble for political advantage. But the President, by raising it now and in this manner has made it a political issue. He has raised the suspicion that he has yielded to those who advise him that at all costs he must win the political support of northern cities and that the South has no option except to vote for him. Thus, a blinding fog is thrown over a grave issue of broad national welfare.

Your committee feels that even if these features of the so-called

Civil Rights Program were proposed to be and could be carried out by Constitutional methods, and even if the proponents of these measures be sincere in their advocacy, nevertheless because of the highly controversial nature of the problems presented, such legislation is unwise because it would tend to impair the national unity of the American people at a time when international relations imperatively require such unity.

A further extension of federal power by enlarging the prohibitions against State action contained in the Fourteenth and Fifteenth Amendments is found in the case of *Elmore v. Rice,* 72 Fed. Sup. 516, 165 Fed. 2d 387 (1947) in which the court held that action of the South Carolina Democratic Party in prohibiting Negroes from voting in party primaries constituted State action which was violative of the Fourteenth and Fifteenth Amendments. By denying certiorari, the Supreme Court has upheld this decision. The result in this case had been foreshadowed in the case of *Smith v. Allwright,* 321 U. S. 649 (1944). But the decision in *Elmore v. Rice* extends the rule announced in the *Allwright* case, and invalidates the attempt by South Carolina to meet the holding in the *Allwright* case.

Further curtailment of the rights of the States arises as a result of the decisions in the cases of *Shelly v. Kraemer,* 68 S. Ct. 836 (1948) and *McGhee v. Snipes,* 68 S. Ct. 836 (1948). In these cases six members of the Supreme Court of the United States reversed judgments of the Supreme Courts of Missouri and Michigan which upheld and enforced restrictive covenants having as their purpose the exclusion of Negroes from the ownership or occupancy of certain real property. The court held that such restrictive agreements are perfectly valid so long as their purpose is effectuated by voluntary adherence to their terms. But the court held that judicial enforcement by State courts of the restrictive terms of such agreements constituted State action which denied to Negroes the equal protection of the laws in violation of the Fourteenth Amendment.

Aside from the questionable soundness of the decisions, there is another fact in this case which furnishes cause for concern. These suits were private litigation to which the Federal government was not a party and in which it was not involved in any way. Nevertheless, the Attorney General of the United States filed a brief amicus curiae attacking the right of the State courts to enforce such restrictive covenants.

Further indication of the tendency of the Supreme Court of the United States to strike down State statutes and law enforcement measures which long have worked well is reflected in the decision on March 29, 1948, in the case of *Winters v. People of New York,* 68 S. Ct. 665 (1948). In this case, the defendant was a book dealer who was convicted and fined for having in his possession with intent to sell a certain magazine said to be violative of a New York statute which had been enacted as early as 1884. The statute prohibited the distribution of publications principally made up of criminal news, police reports or accounts of criminal deeds, and the like. As interpreted by the State courts, such statute outlawed only the "massing" of material of that nature in such a way as likely would tend to incite crime.

A majority of the Supreme Court held that the statute was void for indefiniteness, and the effect of this decision was to strike down statutes

of a similar nature in twenty-four states; this despite the fact that such legislation had worked reasonably well in practice for half a century. This decision is criticized in an editorial in 34 A.B.A.J. 390.

When the committee considers the trend reflected by decisions of the type hereinabove reviewed, there is brought to mind the prophetic language of Justice Holmes in his dissent in *Baldwin v. Missouri,* 281 U. S. 586 (1929) where he said:

> I have not yet adequately expressed the more than anxiety that I feel at the ever increasing scope given to the 14th Amendment in cutting down what I believe to be the constitutional rights of the States. *As the decisions now stand I see hardly any limit but the sky to invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable.*

This committee conceives it to be the duty of this group, as lawyers, to make every effort to defend and maintain our constitutions, our laws, our form of government and the rights of personal and individual liberty. Continued concentration of power in the Federal government is inconsistent with the existence of a free and independent citizenry and strong self-reliant communities and states.

The committee approves the statements of Thomas Hewes in his recent book, *Decentralize for Liberty,* wherein it is said (p. 33):

> Our own government, as far as possible, must be returned to the neighborhoods, the towns and states of the nation so that each citizen and each family may share in, and understand, the responsibilities and advantages of active democracy.

The committee recommends that this association go on record as favoring and endorsing the action of our governing officials and elected representatives in asserting and upholding the constitutional principles of States' Rights and local self government.

The convention was recessed until 8:00 in the evening.

THURSDAY NIGHT SESSION, MAY 27, 1948

The meeting was called to order by the Chairman, Mr. Eaton. Mr. Charles A. Pollard of Greenwood was recognized to present the report of the Committee on Public Relations and Information. (No copy of this report was available for publication.)

The Chairman, Mr. Eaton, announced that the next order of business would be the election of officers.

Accordingly Mr. George Woodliff of Jackson was elected Chairman of the Junior Bar Section, and Mr. Huey B. Howerton, Jr., of Oxford was elected Vice-Chairman.

The final order of business was the election of District Commissioners for the Junior Bar Section. The following were elected: Chester Curtis and Cage Brewer of Clarksdale, Northern District; Erskine Wells of Jackson and James Robertshaw of Greenville, Central District; W. Arlington Jones of Hattiesburg and Lampton Williams of Poplarville, Southern District.

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1948-1949

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JUDGE SYDNEY McCAIN SMITH

*W. G. Roberds**

The Ancient Arabs had a saying that "death is a camel that kneels before every man's tent." At 9:07 o'clock the night of July 24, 1948, it knelt at the bedside of Sydney Smith; he heard the rustle of a wing and his soul returned to its Creator.

A man's life is a combination of his works and his character.

As to Judge Smith's works and achievements, he was born at Lexington, Holmes County, Mississippi, April 9, 1869, a son of Thomas White Smith and Sarah West Smith. He attended the public schools of his County. He graduated in law at the University of Mississippi in June 1893, and located in Yazoo City. The next year he returned to his native Lexington, from which County he served two terms in the State Legislature with outstanding ability.

He was appointed Circuit Judge in 1906, and served until May 10, 1909, when he was appointed to the State Supreme Court by Governor Noel. From that date until his death he served continuously on that Court. He became Chief Justice of the Court in 1912 and so continued to his death—36 years. That is a combination of judicial service unequaled so far as I am aware. Fourteen persons had been Chief Justice of the Court before his term, the longest term of any one (Judge Sharkey) being 18 years. During Judge Smith's tenure as Chief Justice, he administered the oath of office to 12 Governors of this State.

He was Secretary, and later President, of the Mississippi State Bar, which, to a great extent, he organized.

For a number of years, he was the Mississippi member of the Council of the American Law Institute. As such, he deduced from the cases for that Institute the various rules of law in this State applicable to the subjects being treated at the time by that organization. He took great pride in that work.

He taught law, at different times, at Millsaps College, Jackson, Mississippi, the State University of Mississippi, and at Northwestern University, Chicago.

He was a Mason, and for many years a deacon in the Baptist Church.

On April 9, 1896, he was married to Miss Mattye Leigh Smith of Crystal Springs, Mississippi. They were devoted man and wife until her death July 30, 1947, almost one year to the day prior to his own passing. They had no children.

One of such accomplishments necessarily possessed unusual traits of character. Space permits mention of only a few of these.

Judge Smith was a religious man. He appeared to be that by nature. He must have been that kind of man all of his natural life. He believed in a personal God. He had no doubts or fears as to that. He met his

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*Associate Justice, Supreme Court of Mississippi; Former Professor of Law, University of Mississippi.

trials and problems, and was not disturbed as to his personal destiny. He was not burdened with animosities or evil thoughts or bad habits. He taught a Sunday School Class at the First Baptist Church in Jackson for 36 years. His religious convictions not only governed his private life but guided him in his official acts. He always kept a Bible on his desk. He often compared present-day legal rules with the principles laid down in that Book. He was a student of the Bible, and he tried to conform his personal and official conduct to the precepts announced therein. Such a man had to be conscientious, faithful, and sincere. As he himself expressed it, "I did my best to do my best."

He was a student all of his life, not only of Mississippi law but law in general and of history, literature, and government. He often in conference surprised his Associates by making reference to some point or idea pertinent to their discussions which he had gleaned from writers other than of legal works.

He had a direct mind. He went straight to the point. He stripped subjects of irrelevant matters. He quickly cleared away the underbrush. That is shown by his opinions. They are short, clear, concise, and to the point.

But, with all of this, he was a modest man. One incident illustrates that; Stephens Publishing Company dedicated Volume 197 of the Mississippi Reports to him. That was the 100th volume that company had published. Judge Smith had signed all the contracts with that publisher. It wrote Judge Smith asking him for a summary of his services on the Court, and of the opinions he had written in which he took the greatest pride. It desired to insert this summary, along with his photograph, in that volume. Judge Smith declined to write, or permit to be written, such a summary. That, he thought, might appear boastful. On the contrary, he permitted another to write 13 short lines as a dedication, which merely mentioned his long service as a member of the Court, and his supervision of the reports published by this Company.

It is difficult to describe his value to the other members of the Court. He had been a member for 39 years. His name as such member first appears in Volume 92 of the Mississippi Reports. Two hundred volumes have been published. That means he actually took part in more than half of all the decisions and opinions which have been handed down by this Court in its entire history. In other words, his life and work constitute the major part of the greater period, in time and importance, of the judicial history of this State. Not only were the decisions a part of his life, but, in addition, he was a diligent searcher of the authorities, and would seldom put anything into a written opinion for which he had not found a case or a text supporting the statement. As a consequence of this experience and this habit of research, he possessed great skill in finding the law, so that when no other member could find a precise point in the books, he frequently could.

The Chief Justice has many important duties not imposed upon the other members of the Court. He supervises the setting of the docket, keeps a record of the cases which have been argued and submitted, and to which Judge each case has been assigned, whether the cases have been reported to the conference, and, if so, whether they have been checked and

again reported by another Judge, as well as many other duties relating to the procedure of the Court and the orderly administration of its business. He kept his records and handled these matters with consummate skill and accuracy. Frequently it is difficult to be sure what result in further proceedings will follow the decision of a case. He knew better than any of the rest of us what the result would be. In other words, he was a counsellor and guide to the other members of the Court.

Lastly, he was a faithful and conscientious man. His Court work was his life. He loved it. He wanted to serve out his term, expiring in January, 1950. This desire and love of his work caused him to continue to perform his duties when such performance was hazardous to his life. Indeed, his faithfulness to his work shortened his life. He knew that would likely be the result. He consciously sacrificed himself upon the altar of duty.

All in all, considering the length and quality of his services, and the personal attributes of the man himself, we shall not look upon his like again.

We cannot tear aside the veil and see into the future, but wherever that place is which may be reserved for the gallant and the good, for the faithful and devoted, for the able and conscientious public servant, there now abides the spirit of Sydney Smith.

CHIEF JUSTICE SYDNEY SMITH

*R. J. Farley**

To small and obscure men death and the grave are ever ominous. Immortality of the soul is a solace doubly sought for both the respite and the assuagement of faltering and frustrated effort. To strong and purposeful men who have kept the faith with their fellows and who have been true to themselves, immortality of the soul may be viewed almost as a by-product —their lives have made an impress on others which will bridge the generations such that one, without the bolstering aid of religion, may ask, "Oh, grave where is thy victory?"

Death has left its sting for those who knew and treasured the friendship of Chief Justice Sydney Smith but the grave has been defeated. I leave to others the detailing of his service as a great judge and the quality of his work in a difficult stage of transition. For my part, Justice Smith was intelligently considerate, sympathetic, but above all sincere—qualities of greatness without regard to vocation. As was said by Emerson, "The world is upheld by the veracity of good men: they make the earth wholesome. They who lived with them found life glad and nutritious." Death spared Justice Smith long enough that the grave was worsted. He will be numbered among the immortals who have molded Mississippi.

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*Dean, University of Mississippi Law School.

CHIEF JUSTICE SYDNEY SMITH

*Phil Stone**

I knew Chief Justice Sydney Smith from my earliest days. When he was elected President of the Mississippi State Bar, I was one of his pages at that annual meeting. He was on the Supreme Court Bench a good while before I was admitted to the practice of law. It would be impossible for me to enumerate the number of cases that I have argued before him. He always seemed fond of me from my boyhood, and I always treasured this friendship and very eagerly sought his approval. I almost never went to Jackson that I did not go to see him.

There was never a time that I did not find him a fair, courteous, patient, and impartial judge and, sometimes to my sorrow, a very wise and discerning judge. In all these years I never found him anything but a wise, patient, and loyal friend, always ready to give generously to a younger man from the great store of wisdom which he had accumulated through the years. All the time I have been practicing law he has been one of the men whom I held before me as a model to be imitated, however far I might fall short of success in such imitation.

As President of the Mississippi State Bar I regret deeply the loss of his services to the State of Mississippi, and to the bench and bar of the nation the loss of his services as a member of the American Law Institute. As an individual I grieve very deeply over the loss of the personal friend of a lifetime. I cannot help but feel that many years will pass before we shall have his like again.

*President, Mississippi State Bar; Oxford, Mississippi.

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JACKSON

Abernathy, J. B.
Adams, Virgil C.
Alexander, C. W.
Alexander, H. Chalmers
Alexander, James A.
Alexander, James A., Jr.
Alexander, Julian P.
Alexander, Julian P., Jr.
Alford, Mrs. Cecile C.
Anders, J. G., Jr.
Arrington, R. O.
Austin, B. G.
Austin, H. L.
Avery, Ralph B.
Bacon, Wm. A.
Barbour, J. S.
Barksdale, Henry
Barnett, Ross R.
Beach, John S.
Beacham, Loyd L., Jr.
Beard, Wirt Adams
Bennett, John D.
Berry, S. B.
Berry, Walter
Bigner, Wayne A.
Birdsong, Sam
Bivins, W. R.
Black, William P.
Blalock, J. A.
Blissard, T. L.
Bond, E. L.
Bostic, Carl C.
Bouslog, M. P.
Bowling, Francis S.
Boykin, Mack L.
Brame, Ollie D.
Brannon, J. R.
Bratton, Thos. S.
Breland, Daniel E.
Broom, Harmon W.
Broom, S. C., Jr.
Brown, Henry N., Jr.
Brown, James T.
Bryant, Clifton E.
Bryan, Harry M.
Buchanan, Harry
Burkett, John G.
Burns, Robert, Jr.
Busby, Chas. W.
Butler, Geo. H., Jr.
Butler, Geo. H., Sr.
Byars, W. G.
Byrd, James L.
Byrd, W. A.
Byrne, G. A.
Caldwell, T. E.
Calhoun, Edwin
Cannada, Robt. C.
Carlisle, Robert T.
Chambers, Paul
Chandler, C. J., Jr.
Cheney, Reynolds S.
Childress, W. M.
Chill, Bernard N.
Clark, Charles
Clark, G. C., Jr.
Cohen, Marvin A.
Cocke, J. W.
Coleman, Randolph
Coleman, W.
Collum, M. E., Jr.
Collum, Mrs. Aline J.
Conner, M. S.
Coody, A. S. Jr.
Cox, Raymond S.
Cox, Wm. H.
Craig, John
Crawford, Marvin
Crisler, Alfred M.
Crisler, Bert
Crisler, C. W., Jr.
Creekmore, H. H.
Creekmore, Rufus
Creekmore, Wade H.
Cunningham, E. Hugh
Cumbert, D. W.
Daniel, Joe H.
Davis, James L., Jr.
Davis, W. D.
Deterly, H. G.
Deterly, Mrs. Ruth M.
Dinsmore, R. R.
Dore, Donald Edward
Dodd, J. H.
Dudley, Colbert
Dunn, Vardaman
Eager, P. H., Jr.
Easterling, Lamar F.
Easterling, Mrs. M. C.
Edwards, Allen T.
Edwards, Earnest R.
Edmonds, Henry
Ellis, Tom
Enochs, DeWitt C.
Ethridge, F. K., Jr.
Ethridge, Geo. H.
Everett, W. M.
Ewing, Jack
Ewing, W. R.
Ferguson, Miss V.
Flowers, Henry G.
Flowers, J. N.
Fontaine, W. B.
Franklin, J. B.
Franklin, Lester, Jr.
Franklin, J. E.
Gardner, Albert S.
Gerald, Martha W.
Gillespie, H. B., Jr.
Gordon, Chas. M.
Gordon, Walter S.
Grantham, Gordon
Graves, Chas. L.
Green, Garner
Green, Garner W., Jr.
Griffin, P. J.
Griffin, Mrs. Julie S.
Griffith, V. A., Judge
Guice, Claude W.

Gwinnup, Harry G.
Hall, William G.
Hamilton, Geo. S.
Hamilton, L. D.
Hamlin, W. G.
Harper, A. Y.
Harris, W. R.
Hartford, Mrs. D. C.
Hartford, Robt. W.
Hauberg, Robert E.
Hedgepeth, T. H.
Heidelberg, Cecil F., Jr.
Herring, Geo. B.
Hendrick, Leon F.
Hewitt, W. H.
Holland, C. E.
Holmes, E. R., Jr.
Hopkins, Hugh Sam
Horan, Leo
Howie, Joseph
Huffman, T. G.
Hunter, H. M.
Hulen, Mrs. Elizabeth
Inman, C. E.
Inman, C. E., Jr.
Jackson, Forest B.
Jiggitts, Mrs. L.
Jones, James Edward
Jones, L. Barrett
Jones, P. Z.
Kendall, Henry M.
Kendall, James T.
Kepper, C. W.
Kilgore, Chas. D.
Kimbrell, Frank C.
Kuykendall, J. M., Jr.
Landman, B. R.
Landrum, Ralph
Laughlin, Wm. F.
LaRue, I. P.
Leak, H. C.
Lee, D. M.
Lee, Robert M.
Lewis, Meyer A.
Lindsey, H. Lee
Lipscomb, Hubert
Loerke, Carl F.
London, A. N.
Long, L. H.
Lotterhos, Fred J.
Lowry, R. T.
Ludlam, Warren V., Jr.
Lyell, G. G., Sr.
Lyell, G. G., Jr.
Maloney, John P.
Mansell, Magruder Lee, Jr.
Manship, Luther
Martin, G. L.
May, Geo. W.
May, Mrs. Rose
May, W. D.
McClintock, Geo. T.
McDonald, E. J.
McDowell, E. F.
McGee, S. E.
McGehee, Harvey, Judge
McGowan, M. M.
McKeigney, Alex
McLean, Mrs. Margaret
McLendon, B. B.
McManus, Dessie E.
McMuelan, Geo. K.
McRae, F. P.
Meek, Geo. D.
Mhoon, W. L. (Col.)
Moffitt, Martha Rose
Mounger, W. M.
Mitchell, Milton
Moncure, Mrs. Clarabel H.
Montgomery, E. W., II
Moore, E. D.
Morse, W. E.
Neal, G. S., Jr.
Neely, Wm. H.
Neely, Wm. T.
Nelson, A. M.
Nevels, Mrs. Alice
Newman, W. R., Jr.
Nichols, Robt. G., Jr.
Nix, Chas. R.
Noble, George R.
Nunnery, Herbert
Odom, Miss Tillie
O'Mara, Junior
Owen, Harry D.
Overstreet, N. W., Jr.
Owens, H. S.
Patterson, Joe T.
Patterson, W. R.
Penny, John L.
Perry, Robert E.
Pierce, W. W.
Pilgrim, M. A.
Poole, John R.
Porter, Miss F.
Pratt, Walter F.
Prisock, L. V.
Putnam, John M.
Pyle, L. A.
Pyles, Dixon
Quinn, L. Percy
Quinn, O. B., III
Ray, Bob
Reed, W. C., Jr.
Rhodes, John Sivley
Rice, Greek L.
Ricketts, Barron C.
Ridgeway, C. R., Jr.
Ridgeway, W. B.
Robbins, W. E.
Roberds, W. G., Judge
Robertson, Stokes V.
Robertson, Stokes V., Jr.
Robinson, Sidney A.
Rogers, Shelby R.
Rotwein, Abe A.
Russell, Ted
Rutledge, Robert M.
Sadler, David L.
Satterfield, J. C.
Scanlon, Leo J.
Schweizer, G. J.
Scott, Charles
Scott, Tom Burkett, Jr.
Scott, Walter A., Jr.
Searcy, Will P.
Seay, Clant M.
Shaw, George E.
Shappley, W. L.
Shell, Dan H.
Shelton, L. L.
Shelton, E. L.
Shoemaker, N. R.
Shows, Walter L.
Skinner, Joe E.
Smith, F. P.
Smith, L. O., Jr.
Smith, L. A.
Smith, Sydney A., Jr.
Snow, Chas B.
Spence, Lee R.
Spencer, J. L.
Stainton, R. L.
Steele, R. H.
Steele, Mrs. L. M.
Stennett, E. W.
Stennett, J. C.
Stevens, J. M.
Stevens, Phineas
Sterling, Carter
Sterling, J. B.
Stockton, James M.
Stockdale, C. L.
Stovall, R. B.
Stone, John E.
Stricker, V. J.
Stricker, V. J. Jr.
Stringer, A. C.
Stringer, H. C.
Stringer, Iva L.
Strong, James W.
Sudduth, W. E., Jr.
Sullivan, C. A.
Sullivan, John C.
Sumrall, J. H.
Taylor, H. D.
Taylor, O. B.
Taylor, O. B., Jr.
Taylor, R. H.
Taylor, Swepson S., Jr.
Teat, G. L.
Thomas, Earl T.
Thompson, Allen C.
Thompson, Fulton
Thompson, J. H.
Thompson, R. H.
Thornell, C. M.
Tighe, B. L., Jr.
Todd, E. B.
Travis, Cecil F.
Trenholm, Edw. L.
Tucker, Mrs. Betty B.
Upton, Mrs. Marie L.
Wade, B. D.
Walker, Jas. M.
Wander, Mose
Ward, F. A.
Waterman, Irwin G.

Watkins, H. V., Jr.
Watkins, Thos. H.
Watkins, W. H.
Watson, J. R.
Wells, Will S.
Wells, W. Calvin
Wells, W. Calvin, Jr.
Wells, W. Calvin, III
Wells, Erskine W.
Wells, Robert
White, Helen
Williams, F. T.
Williams, Gladstone E.
Wise, Sherwood
Whitfield, Connie S.
Womack, Edwin L.
Woodliff, George
Woodrow, O. J.
Wright, Fielding L.
Wyatt, L. A.
Young, J. Will, Jr.

KOSCIUSKO

Allen, John F.
Allen, Joe Frank
Allen, John Percy
Brooks, William D.
Crawley, David E.
Crawley, J. T., Jr.
Ford, W. R.
Glass, D. H.
Guyton, J. D.
Guyton, J. H.
Hines, Harry
Landrum, Roger
Love, John Clark
Massey, Alton
Morgan, C. E.
Morgan, C. E., Jr.
Thornton, G. J.
Townsend, Wm.
Woodward, Claude J.

KOSSUTH

Hughes, F. K.

LAMBERT

Stone, Hoke
Stone, V. D.

LAUREL

Beard, W. A., Jr.
Bonney, E. C.
Buchanan, James R.
Campbell, J. E.
Carter, B. F.
Casey, Lunsford O.
Collins, E. K.
Collins, F. B.
Cooper, E. B.
Deavours, Jack
Doggett, Grover
Dyke, Herbert H.
Easterling, E. T.
Gartin, Carrol
Gibbes, Denton
Gross, David B.
Harper, Matthew, Jr.
Hilburn, Henry, Jr.
Holloman, Frank C.
Koch, Harry E.
McLendon, Frank W., Jr.
McDill, Jack
Melvin, Leonard, Jr.
Moynihan, H. C.
Montgomery, Goode, Jr.
Nobles, Roy P.
Pacific, Larry A.
Pack, Samuel V.
Peterson, M. J.
Ratcliff, K. C.
Ross, Quitman
Scott, A. S.
Swartzfager, Paul
Tullos, Lowie V.
Walker, Ray
Weems, M. B.
Welch, David C.
Welch, W. S.

LENA

Wood K. P., Jr.

LEAKESVILLE

Alderman, J. E.
Backstrom, J. W.
Walley, Ben H.

LELAND

Gerald, Eugene
Waits, D. Hilton
Waits, Wm. B.
Webb, John C.

LEXINGTON

Barrett, Pat M.
Berman, J. E.
Jackson, C. M.
Johnson, H. H.
Lindholm, P. P.
McMorrough, G. H.
Neilson, E. T.
Ruff, D. T.
White, H. Edwin

LIBERTY

Badon, Thomas S.
Gordon, C. T.
Gordon, J. D.
Poole, M. H.
Robertson, J. A., Jr.
Stratton, Asa G.
Stratton, F. W.

LONG BEACH

Aldridge, Francis G.

LOUISVILLE

Boydstun, R. W.
Cunningham, P. L.
Fair, Charles D.
Hathorn, Hoy
Livingston, Ed M.
Priscock, Neal
Reich, Frank L.
Rodgers, Henry L.
Smith, B. O.
Strong, W. A., Jr.

LUCEDALE

Aikens, E. C.
Byrd, T. H.
Hillman, Horten
Malone, Maurice L.
Moss, J. O.
Murphy, Wm. S.

LUMBERTON

Yeager, John A.

McCOMB

Alford, J. L.
Alford, Percy K.
Brock, Phil O.
Cassidy, J. J.
Harper, C. E.
Hewitt, F .D.
Jackson, Wm. F.
Jones, Bert H.
Jordan, T. A.
McClaren, L. S.
McLain, W. G.
Norris, Mrs. M. W.
Price, Kenneth G.
Reeves, R. B.
Roach, J. Gordon
Simmons, Hansford L.
Varnado, Laverne
White, James A.

MACON

Britton, E. H.
Brown, Ernest L.
Hughes, Daniel C.
Lucas, W. B.
Martin, L. L.
Phillips, John A.
Tyson, James L., Jr.
Stennis, J. P.

MAGEE

Floyd, L. R.
McRaney, A. W.
Russell, R. C.

MAGNOLIA

Cutrer, R. W.
Phillips, O. W.
Price, J. H., Jr.
Statham, Billy
Wiltshire, James A.

MARKS

Black, E. C.
Caldwell, Ben. M.
Cox, W. A.
Denton, P. L.
Gore, Ney, Jr.
Gore, Teay N.
Thompson, Eugene

MAYERSVILLE

Windham, E. P.

MEADVILLE

Bennett, R. E.
Cowart, C. E.
Forman, L. L.
Griffing, H. B.
Hewitt, W. W.
McGehee, Dan R.
McGehee, H. B. Mayes
Torrey, J. A.

MENDENHALL

Edwards, A. K.
Edwards, J. P.
Farmer, H. K.

Grubbs, George B.
King, Bee
Sykes, James B.

MERIDIAN

Adams, P. G.
Amis, A. B., Sr.
Bailey, Harold M.
Bozeman, A. S., Jr.
Bozeman, A. S.
Broach, Walker, Jr.
Broadway, L. J.
Burns, James A. (col.)
Butler, James W.
Byrd, Joe G.
Cameron, Ben F.
Cameron, Chas. B.
Cameron, O. Winston
Clayton, W. L.
Cooper, R. D.
Covington, J. A., Jr.
Crain, Harold G.
Crain, Mrs. Maxine
Denton, C. L.
Drew, E. R.
Dunn, Aubert C.
Dunn, Edwin A.
Dunn, J. Thomas
Ethridge, Geo. M., Jr.
Floyd, J. C.
Gantt, C. E.
Gilbert, V. W.
Gillespie, R. G.
Gipson, J. R.
Gipson, J. V.
Gipson, Champ
Graham, J. H.
Graham, S. M.
Harwell, J. E.
Hendricks, T. M., Jr.
Huff, J. Knox, Jr.
Johnson, Alvis C.
Lobrano, Jack
Lord, Richard G., Jr.
McCants, Allan
McDonald, E. L.
McDonald, J. T.
Minniece, Thos. Y.
Minor, Jack
Nettles, S. R.
Neville, G. B.
Neville, Wm. deB.
Parker, James E.
Pigford, Howard R.
Riddell, J. A.
Rodgers, Cecil A.
Rogers, Fred
Ross, Fred A.
Sams, L. F.
Shumate, James F., Jr.
Shields, C. D.
Singley, J. T.
Smith, W. LaValle
Snow, E. L.
Strange, E. T.
Tinsley, Robert L.
Wallace, Robert E.
Wilbourn, J. C.
Wilbourn, R. E.
Williams, Thos. M., Jr.
Williamson, N. S.
Wills, L. E.
Witherspoon, Gibson
Woodall, H. S.
Wright, C. M.
Wright, Russell

MISSISSIPPI CITY

Finch, Harold E.

MIZE

Sullivan, P. B.

MONTICELLO

Cole, James E.
Patterson, E. B.
Patterson, J. N.
Patterson, J. P.
Riley, J. K.
Turnage, E. A.

MOORHEAD

Featherstone, F. M.
Himelstein, Ben

MORTON

Clifford, Chas. C.

MOSS POINT

McIntosh, L. K.

MOUND BAYOU

Green, B. A. (colored)

MOUNT OLIVE

Calhoun, Ed. L.

NATCHEZ

Adams, Lawrence
Berger, Frederick C.
Byrnes, C. F.
Braden, Wm., Jr.
Brandon, G. H.
Brandon, J. M.
Brown, Joe E.
Callon, B. C.
Chadwick, Carl A.
Coleman, W. D.
Engle, C. F.
Forman, R. B., Jr.
Geisenberger, W. A.
Gwin, L. C.
Handy, Geo. S.
Hornsby, Oliver
Keyer, James H.
Laub, S. B.
Netterville, Robt. L.
Patterson, C. F.
Ratcliffe, C. L.
Ratcliffe, E. H.
Whittington, L. A.
Winkler, G. E.

NEW AUGUSTA

Bradley, Richard C.
Hairston, Chas. C.
Watkins, A. T.
Young, H. D.

NEW ALBANY

Carlton, L. K.
Clayton, H. N.
Darden, T. L.
Knox, Baxter, Jr.
Stephens, Edgar J., Jr.

NEW HEBRON

Bush, Fred

NEWTON

Amis, A. B., Jr.
Anderson, D. M., Jr.
Carr, J. M.
Majure, R. S.
Roebuck, S. T.
Wall, E. R.

NORTH CARROLLTON

Neill, J. C.
Neill, W. C.

OCEAN SPRINGS

Bailey, B. O.
Burkett, Amy
Poitevent, Schuyler, Jr.

OKOLONA

Bean, George
Morrison, H. L.

OXFORD

Andrews, L. C.
Bratton, C. A.
Brown, J. H.
Ethridge, Wm. N., Sr.
Ethridge, Thomas R.
Faulkner, J. W. T.
Joor, W. W.
McElroy, T. H.
Patton, Fred B.
Roberts, Bramlette
Slough, Mrs. C. E.
Smallwood, R. L., Jr.
Stone, Phil
Sumners, C. L.
Surgis, Valentine
Wilson, Earl R.
Williams, R. X.

PASCAGOULA

Colmer, Wm. M.
Ford, J. I.
Gautier, H. W.
Harper, Everette L.
Heidelberg, H. P.
Hill, John T.
McLeod, O. L.
Mitchell, Chas. S.
Palmer, Merle F.
Seaman, Harold
Simmons, D. J.
Watts, L. A.
Wiesenburg, Otto K.

PELAHATCHIE

Mashburn, Troy W.
Ross, Jim Buck

PHILADELPHIA

Alford, H. W.
Gillis, J. K.
Haddock, James H.
Hillman, J. B.
Lewis, Clayton
McCraw, A. B.
Moore, Wilburn D.
Priscock, Robt.

Sanford, W. H.
Stribling, Dees
Weir, W. T.

PICAYUNE

Angelo, Wyatt B.
Keaton, G. B.
Steen, R. E.
Stewart, Ray M.
Stockstill, J. E.
Thigpen, Tate
Tyler, Luther F.

PICKENS

Atkinson, George
Jones, Bernard M.

PLANTERSVILLE

Deaton, Joe S.

PONTOTOC

Fontaine, J. B.
Inzer, Wm. H.
Jaggers, Boudie A.
Mauldin, B. P.
Rayburn, Kendall G.
Wicker, Fred C.

POPLARVILLE

Mayfield, J. B.
Morse, J. M.
Morse, J. M., Jr.
Parker, H. H.
Shivers, J. C.
Williams, E. B., Sr.
Williams, E. B., Jr.
Williams, Lampton

PORT GIBSON

Abraham, J. L.
Anderson, R. B.
Davis, E. D.
Drake, J. T., Jr.
Gage, R. D., III
Watkins, P. M.
Watson, G. S.
Weil, Karl

PRENTISS

Dale, Joseph
Johnson, O. W. (Col.)
Livingston, Robt.
Livingston, W. H.

PURVIS

Bridges, L. C.
Broadus, A. Q.
Coleman, E. F.
Garraway, J. T.
Purvis, C. Gerald
Shanks, Jesse
Williamson, T. L.

QUITMAN

Butler, John Sharp
Covington, A. W.
Fartheree, J. D.
Reese, Andrew J.
Riddell, Tally D.
Shirley, J. E.

RALEIGH

Craft, S. W.
Currie, Homer W.
Martin, J. D.
Pittman, Luther D.
Tullos, R. S.

RAYMOND

Adams, James Herman
Gillespie, H. B., Sr.
Hannon, A. J.
Melton, Louise
Ratliff, P. D.
Williams, John B.
Williams, M. Ney

RICHTON

Smith, C. C.

RIPLEY

Anderson, W. H.
Elliott, B. W.
Ladner, H. G., Jr.
Pegram, T. E.
Pegram, T. E., Jr.
Smith, Fred B.
Smith, Robt. B.
Street, Orbrey
Street, Oscar

ROLLING FORK

Brown, A. L.
Clements, E. C.
Clements, W. H.
Glazier, Herman
Joor, J. S., Jr.
Miller, J. Wesley
Wright, F. L., Jr.

ROSEDALE

Kaufman, M. L.
Roberts, W. C.
Sillers, Walter
Valentine, A. F.

RULEVILLE

Everitt, Robt. D.
Herring, H. Lee
Townsend, Pascol
Wiley, O. E.

SARDIS

Fant, H. M.
Keys, R. Taylor
Kyle, John W.
McClure, James, Jr.
Swango, C. M., Jr.

SCOTT

Johnston, Oscar

SENATOBIA

Dean, J. F.
Holmes, Herbert
Johnson, R. E.
Puryear, L. P.
Thomas, Dick R.

SHAW

Chiz, Raymond

SHELBY

Thompson, Wayne

SHUBUTA

Carty, Buell R.
Huff, W. J.

STARKVILLE

Bell, B. F.
Brown, E. H.
Brown, L. W.
Daniel, G. Odie
Greene, John D., Jr.
Martin, Lloyd L.
Magruder, A. F.
McKee, Wm. Q.
Ross, Wm. M.
Walker, B. M., Jr.
Ward, Will E.
Ward, Wm. H.

STONEWALL

Butler, J. H.
Hughes, Phillip D.

SUMMIT

Hutchinson, E. G.
Hutchinson, J. T.

SUMNER

Carlton, C. Sidney
Breland, J. J.
Henderson, R. Harvey
Kellum, J. W.
Whitten, J. W., Jr.

SUMRALL

Hatten, W. J.

SUNFLOWER

Siegel, Zelda

TAYLORSVILLE

Ford, Evon A.
Keyes, John K.
Weathersby, O. O.

TUNICA

Bankston, W. L.
Dulaney, J. W.
Garner, Martin
Lowe, J. T.

TUPELO

Adams, M. T.
Anderson, John R.
Barrett, John T.
Blair, W. A.
Bolton, C. R.
Boren, Hugh A.
Burgess, Ramon L.
Clayton, C. F.
Clayton, S. P.
Davis, T. D.
Finley, J. A.
Hill, Wiley C.
Hill, Robert E.
Long, Sam H.
Lumpkin, Sam E.
McNutt, Robert N.
Mitchell, Guy W.
Mitchell, Guy W., Jr.
Mitchell, Wm. P.
Monaghan, Noel
Rankin, John E.
Shands, D. D.
Stuart, Jack E.
Thomas, F. G.

TYLERTOWN

Alford, J. M.
Marble, Roland D.
Mounger, B. O.
Watkins, W. H., Jr.

UNION

Harmon, J. M.
Johnson, C. E.
Porter, L. B.

Stamper, H. G.
UNIVERSITY
Bunkley, Joel Wm., Jr.
Ethridge, W. N., Jr.
Farley, Robert J.
Fox, J. H.
Green, A. W.
Howerton, Huey B., Jr.
UTICA
Carmichael, G. B.
VAIDEN
Coleman, A. J.
VICKSBURG
Alvis, W. T.
Biedenharn, J. P.
Bliss, Earnest L.
Bodron, Ellis B., Jr.
Bonelli, A. M.
Brunini, Alexander J.
Brunini, Edmund L.
Brunini, John B.
Canizaro, Jack P.
Chaney, George
Culkin, J. H.
Dabney, F. Y.
Dabney, J. B.
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